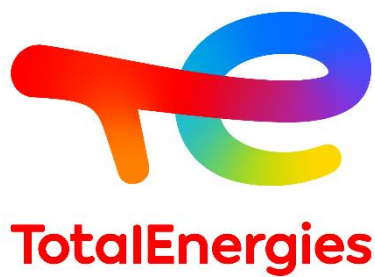


**TotalEnergies Marketing Puerto Rico Corp.  
General Terms and Conditions for the  
Performance of Work and Services (GTCPWS)**



# General Terms and Conditions for the Performance of Work and Services (GTCPWS)

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## ARTICLE 1 – DEFINITIONS

These General Terms and Conditions for the Performance of Work and Services are hereinafter referred to as the "**GCWS**" or the "**Conditions**". In these Conditions, the following terms shall have the meanings set out below:

**Acceptance** means the acceptance of the Work and Services by the Customer as set out in ARTICLE 9 and **Accept** shall be construed accordingly.

**Affected Party** has the meaning assigned to it in article 21.

**Conformity** means the conformity of the Work and Services with each and all of the following:

- the specifications provided and/or approved by the Customer and/or any expected results set out in the Contract;
- the other provisions of the Contract;
- the prevailing industry standards; and
- any applicable statutory provisions

and **Conforming** shall be construed accordingly.

**Contract** means the contract governing the relationship between the Supplier and the Customer in respect of the Work and Services including in particular and in descending order of priority the following documents:

- (a) the Order Form;
- (b) any specific terms and conditions and their appendices;
- (c) the GCWS and attachment(s);
- (d) where applicable, the documents drawn up by the Supplier which the Customer expressly agrees to incorporate into the Contract.

**Customer** means any legal entity of TOTALENERGIES referred to in the Contract, it being understood that the TOTALENERGIES consists of TOTALENERGIES SE and all of the legal entities in which TOTALENERGIES SE holds or shall in the future hold directly or indirectly over 50% of the share capital or voting rights. The Supplier hereby expressly acknowledges and accepts that there will be no joint and several liabilities between the Customer, on the one hand, and TOTALENERGIES SE or any other legal entity forming part of TOTALENERGIES, on the other hand. Consequently, each ordering legal entity will remain solely responsible for the performance of its obligations towards the Supplier pursuant to the Contract.

**Order Form** or **Order** means the paper or electronic form (as part of electronic transactions) with which the Customer orders the Work and Services from the Supplier, which shall include the following as a minimum:

- A description of the Work and Services;
- The price(s) payable for the Work and Services;
- Details of the Site at which the Work and Services are to be performed;
- The periods and deadlines for performance;
- The Customer's identification details; and
- The reference number of the Contract.

**Parties** or **Party** means the Customer and/or the Supplier collectively or individually, as the case may be.

**Restricted Person** means any individual or entity listed, of 50% or more (direct or indirectly) owned or controlled by (if control is used under the relevant Sanctions Laws / Regulations) any party listed, on a Sanctions List.

**Site** means the location(s) where the Work and Services are performed.

**Subcontractor** means any subcontractor or supplier appointed by the Supplier to perform a portion of the Work and Services.

**Supplier** means the legal entity or natural person selected by the Customer to perform the Work and Services.

**Work and Services** means any and all work and services to be performed by the Supplier and any elements (including but not limited to supplies, fittings, equipment and associated documents) to be delivered by the Supplier pursuant to the Contract.

## **ARTICLE 2 – CONTRACTUAL DOCUMENTS**

After having negotiated, the Parties agreed that the Contract constitutes the agreement by and between the Parties and in this respect shall prevail and shall override any and all other conditions and provisions contained in the invoices and other documents issued by the Parties, and shall be applicable insofar as no statutory provision stipulates otherwise.

Verbal undertakings and agreements shall be of no force and effect unless they are confirmed by written agreement between the parties. The Customer shall not be liable for any performance by the Supplier pursuant to a request made verbally or to a verbal modification of the Contract. The Supplier may propose duly identified changes or additions to the GCWS. Any changes or additions to the GCWS proposed by the Supplier shall be expressly conveyed in writing at the same time as its response to the Customer's consultation. If no changes or additions are proposed, the Supplier's response without reservations, or commencing performance or delivering the Supply without reservations by the Supplier, shall be deemed acceptance of the GCWS. Any modifications or departures from these Conditions shall only apply if they have been agreed in writing between the Parties and shall only be valid for the applicable Contract. The Supplier shall not rely on any of these modifications or departures for other Work and Services it performs for the Customer pursuant to these Conditions. The Contract constitutes the entire agreement between the Parties and supersedes and replaces all prior exchanges, undertakings and agreements relating to the Work and Services.

## **ARTICLE 3 – ACCEPTANCE OF THE CONTRACT AND ELECTRONIC TRANSACTIONS**

### **3.1 GENERAL**

Each Contract shall be in writing. Performance of the Work and Services is conditional upon the Customer issuing an Order Form in advance of such performance. For the avoidance of doubt, the existence of the Contract does not confer any exclusivity in favour of the Supplier.

The Supplier shall ensure that it acknowledges receipt in writing of the Order Form within seven (7) calendar days from the date on which the Order Form was sent. Should the Supplier fail to acknowledge receipt of the Order Form within such period, the Customer shall have a further period of seven (7) calendar days within which to notify the Supplier of the Customer's decision to cancel the Order Form, without compensation or other indemnity.

### **3.2 ELECTRONIC TRANSACTIONS**

#### **3.2.1 General principles**

Should an electronic Order Form be issued this shall not prevent the Customer from subsequently issuing a paper Order Form and furthermore, shall not prevent the Parties from agreeing that subsequent transactions shall be performed in part or whole by alternative means. All provisions of the Contract shall apply to all electronic transactions and the issuing of an electronic Order Form.

#### **3.2.2 Proof of electronic transactions**

Where an Order Form is issued by electronic means, the Parties are deemed to act in full knowledge of the technical specifications (or, by joining the Marketplace, the Parties are deemed to have accepted its technical specifications) aimed at ensuring the identification, integrity and generally the security of correspondence between them. In particular, the electronic Order Form and subsequent electronic notice of acceptance thereof shall constitute an electronic signature which, as between the Parties, shall have the same effect as a handwritten signature and shall also constitute proof of the Order Form and of its acceptance by the Supplier.

Unless otherwise provided for in the Contract, the electronic registers stored on the computer systems of the Marketplace's provider or, failing that, on the Customer's computer systems (which shall have adequate security safeguards in place) are agreed to be conclusive evidence of the entire electronic correspondence between the Parties and, as the case may be, of the payments made. In particular, if a time limit is set for a particular action, only the computer dating system of the Marketplace's provider or, failing that, the computer dating system of the Customer shall be valid and relied upon. The Parties expressly waive all rights to question the appropriateness of or to challenge the validity of any contractual undertaking conducted by way of exchange of electronic correspondence where such correspondence is stored in the form set out above.

## **ARTICLE 4 – CHANGES TO THE WORK AND SERVICES**

The Customer shall be entitled to request in writing that the Supplier makes changes to the Work and Services as initially described in the Contract. Depending on the nature of the proposed change, the Customer shall first consult the Supplier and obtain its advice about the impacts of requested change.

The Supplier shall inform the Customer as soon as possible (and, in any event, no later than seven (7) calendar days following the Customer's request for changes to the Work and Services) of the following: (i) any effect the changes will have on prior agreed completion dates and/or deadlines for performance and/or on the anticipated date for Acceptance; (ii) any variations to the agreed price(s) for the Work and Services as initially set out in the Contract; and (iii) generally, any other impact on the Contract arising directly from such changes. The Supplier shall only perform the corresponding changes after the Parties have signed a written amendment to the Contract or, at the very least, upon receipt of the Customer's prior written consent to the project estimate, the new periods and/or deadlines for performance and to the corresponding variation in the price(s) for the Work and Services.

## **ARTICLE 5 – REGISTRATIONS, APPROVALS, AUTHORIZATIONS**

The Supplier warrants that it and its Subcontractors and suppliers, if any, have all statutory registrations, approvals and authorizations required to perform the Work and Services on the Site including but not limited to all licenses, permits and registrations with public authorities and all authorizations and certifications as are required from professional organizations. The Supplier shall deliver to the Customer a copy thereof prior to commencement of the Work and Services.

In the event any or all such licenses, permits, registrations, approvals and/or authorizations are withdrawn from the Supplier or from any of its Subcontractors or suppliers or are not renewed, the Supplier shall immediately inform the Customer of the same whereupon the Customer shall be entitled to terminate the Contract in accordance with article 20.1.2.

## **ARTICLE 6 – TERMS AND CONDITIONS SPECIFIC TO THE PERFORMANCE OF THE WORK AND SERVICES**

The Supplier is bound by an obligation to obtain a specific result in respect of and guarantees the following:

- The Conformity of the Work and Services,
- Compliance with completion dates and deadlines for performance.

The Supplier shall put in place any necessary internal organisational measures, under its sole responsibility, required to perform the Work and Services.

### **6.1 DUTY TO INFORM**

The Supplier shall ensure it is aware of all potential external factors and conditions (including but not limited to technical conditions) that may affect its performance of the Work and Services and undertakes to inform the Customer of the same and to advise it and give prior warnings, regardless of the Customer's knowledge or expertise. The Supplier shall warn the Customer in particular of all risks connected with the Work and Services, including but not limited any health, hygiene, safety and environmental risk.

Prior to commencing performance of the Work and Services, the Supplier shall carry out a careful examination of the information provided by or on behalf of the Customer for the performance of the

Work and Services, such as but not limited to any plans and specifications. The Supplier shall request from the Customer any documents or information, which is lacking.

The Supplier shall inform the Customer, without delay of any and all irregularities, omissions, contradictions, inconsistencies between the information provided by the Customer and the prevailing industry standards. Failure to inform the Customer of the same shall preclude the Supplier from any later right of recourse in relation thereto.

In the event that the Supplier fails to comply with the above provisions, all consequences (including any costs) arising from or associated with any error in or insufficiency of the information provided by the Customer shall be borne by the Supplier.

## **6.2 COMPLIANCE WITH THE PERIODS AND DEADLINES FOR PERFORMANCE – INCENTIVES FOR LATE PERFORMANCE**

The Supplier shall perform the Work and Services within the time limits and/or periods set out in the Contract.

Compliance with the periods and deadlines for performance (including in particular but not limited to the date for Acceptance and/or the date for remedying any reservations arising after Acceptance of the Work and Services and/or, where Acceptance is postponed, the date of putting in Conformity the Work and Services) is a condition of the Contract.

As soon as the Supplier becomes aware that it will not be in a position to comply with periods and deadlines for performance of the Work and Service (including but not limited to the date of Acceptance of the Works and Services), the Supplier shall immediately inform the Customer in writing of the reasons and extent to which it shall not be able to comply and shall propose suitable corrective measures, it being understood that the Customer shall have the right to refuse any measures. The Customer may apply the incentive amounts specified in the Contract, in the event of any non-compliance with periods or deadlines for performance by the Supplier and/or any of its Subcontractors, except if the Supplier is able to prove that it and/or they did not cause such delay. The payment by the Supplier of these incentives shall not affect the Customer's right in to terminate the Contract in accordance with article 20.1 and to claim damages from the Supplier, in addition to the reimbursement of the price(s) already paid by the Customer for the portion of the Work and Services not performed at the date of termination.

## **6.3 EQUIPMENT, TOOLS**

The Supplier shall keep at its own expense and risk, its own equipment and tools in good state of repair and in conformity with applicable laws and regulations.

The Supplier shall repair or replace, at its own expenses, all equipment, fittings and tools provided by the Customer which the Supplier or its employees or Subcontractors has damaged, so as to restore them to their original state.

## **6.4 CLEANING AND CLEARING OF THE SITE – PACKAGING MATERIAL**

The Supplier shall keep the Site(s) clean and tidy. The Supplier shall, in the appropriate manner and without delay as and when the Work and Services are performed, remove all materials, scaffoldings and temporary structures, debris and other items belonging to the Supplier or for which it is responsible, and which are no longer required to continue performance of the Work and Services. All waste produced by the Supplier during performance of the Work and Services shall be removed, disposed of or recycled by the Supplier in strict compliance with applicable laws and in accordance with any health, hygiene, safety and environment regulations in force at the Customer's Site(s).

# **ARTICLE 7 – PERSONNEL**

The Supplier shall cause its Subcontractors (if any) to comply with the provisions of articles 7.1 and 7.2, and shall obtain from them the statements and certificates described in article 7.3.

## **7.1 SKILL, PERMANENCE AND MANAGEMENT OF THE SUPPLIER'S TEAMS**

The Supplier shall assign to the performance of the Work and Services teams of personnel who have the experience, skills, qualifications, authorizations and certifications required for the proper

performance of the Work and Services. The Supplier shall have responsibility for the management and supervision of the Supplier's personnel who shall remain under its sole and full hierarchical authority.

Any indications or requests regarding the performance of the Work and Services that the Customer may have shall be communicated to the operational representative(s) of the Supplier without this creating or constituting any relation of subordination between said operational representative(s) and the Customer.

## **7.2 PRESENCE ON THE SITE AND OFFICIAL LANGUAGE AT THE SITE**

Whenever the Work and Services are performed in whole or in part on a Customer's Site, the Supplier shall ensure that its teams comply with the Site's internal rules and that said teams wear any identification sign as required by the Customer during the whole of their presence on the Site. The Supplier's operational representative(s) shall be responsible for the said teams and he/she together with the Supplier's safety manager who will also be present on the Site shall be fluent in the official language of the Site where the Work and Services are to be performed and shall be able to liaise with the Supplier's teams and ensure compliance with any and all instructions, rules and procedures in force at the Site.

## **7.3 PREVENTION OF ILLEGAL LABOR**

In performing the Work and Services, the Supplier guarantees that its personnel and the personnel of its Subcontractors (if any), involved in the performance of the Work and Services shall be employed and registered in full compliance with the applicable legislation.

In the event the Supplier and/or its Subcontractors, intend to use foreign employees for the performance of the Work and Services, the Supplier hereby guarantees that the said employees shall, prior to their attendance on the Site of the Customer and subsequently during any period of attendance at the said Site, have all required authorizations to work in the country of the Site and have at their disposal all necessary work permits and residence permits.

## **ARTICLE 8 – HYGIENE, SAFETY AND THE ENVIRONMENT (“HSE”) - REACH**

**8.1** The Supplier undertakes to comply and ensure compliance by its Subcontractors with the provisions set out in ATTACHMENT 4 “HYGIENE, SAFETY and the ENVIRONMENT”

## **ARTICLE 9– ACCEPTANCE OF THE WORK AND SERVICES**

Acceptance of the Work and Services shall take place once the Customer has examined the Work and Services to see whether they are in Conformity and only once all elements described in the Contract have been delivered to the Customer.

Acceptance of the Work and Services by the Customer (with or without reservation(s)), or the refusal to Accept shall be recorded in a memorandum dated and signed by the Parties (hereinafter the “Memorandum of Acceptance”).

The decision of the Customer to Accept shall neither exempt the Supplier from its warranties and liabilities for any defects or for any non-Conformity whatsoever which were not apparent at the time of Acceptance.

Acceptance shall take place in accordance with the procedures set out in the Contract, or, should the Contract be silent on such procedures, in accordance with the following:

### **9.1 ACCEPTANCE WITHOUT RESERVATION**

Acceptance without reservation shall be deemed to have occurred once the Customer confirms that the Work and Services are Conforming with the provisions of Contract.

### **9.2 ACCEPTANCE WITH RESERVATION(S)**

If the Customer decides to Accept the Work and Services with reservation(s), the Supplier shall remedy the reservations within the period set out in the Memorandum of Acceptance and the Supplier

shall submit, at the agreed date, the Work and Services for a new examination, it being understood that the incentives for late performance set out in article 6.2 shall apply in the event of non-compliance by the Supplier with the date for remediation of the reservations.

If the Supplier has not lifted the reservations within the specified period or if Conformity is not achieved at the date agreed for the new examination, the Customer shall have the option either (i) to perform itself or cause to be performed by a third party, at the Supplier's risks and expense, all work required to be undertaken to lift the reservations, five (5) calendar days after formal notice hand-delivered with receipt to the Supplier's representative or sent by registered letter with acknowledgment of receipt, remained unsuccessful (without prejudice to the Customer's right to terminate the Contract in accordance with the provisions of article 20.1) ; or (ii) not to ask the Supplier to remedy all or part of the reservations subject to a reduction in the price(s) payable for the Work and Services.

### **9.3 POSTPONEMENT OF THE DATE OF ACCEPTANCE**

In the event the Customer identifies that the Work and Services do not Conform during the examination of the Work and Services, and if in the sole opinion the Customer, the Work and Services can be performed in their entirety, and/or that the non-Conformity can be corrected within an acceptable period, then the Customer shall have the right to postpone the date of Acceptance by sending a notice of postponement to the Supplier. Such notice shall include a final deadline for a new examination of the Work and Services. At this final deadline, the Customer may either (i) decide to Accept the Work and Services, with or without reservation(s) in accordance with the provisions of articles 9.1 and 9.2; or (ii) refuse to decide to Accept the Work and Services in accordance with the provisions of article 9.4.

In the event the date of Acceptance is postponed, the incentives for late performance referred to in article 6.2 shall apply with effect from the date of the notice of postponement.

### **9.4 REFUSAL OF ACCEPTANCE**

The Customer shall have the right to refuse to Accept the Work and Services if the same are not performed in full or if they are not in Conformity. Such refusal will mean that the Supplier has failed to perform the Work and Services. In such circumstances, the Customer shall be entitled to terminate the Contract in accordance with the provisions of article 20.1.

## **ARTICLE 10 – TRANSFER OF OWNERSHIP AND OF RISKS**

Ownership of the Work and Services shall transfer to the Customer gradually as and when the Work and Services progress. However, whenever the Work and Services include the manufacture/supply and delivery of any elements, such as equipment or materials (including but not limited to fittings supplies, equipment and associated documents), the transfer of ownership of any such element shall occur at the time of its delivery, except if the whole or part of the payment thereof has been made by the Customer prior to the date of delivery. In such case, the transfer of ownership shall occur in advance as soon as said element can be identified. In such circumstances, the Supplier undertakes to identify and set aside in the name of the Customer, any element as and when the same is manufactured in such a way that such element cannot be confused with the Supplier's own stock or with that of other supplies to be delivered to third parties. The Supplier shall ensure that its Subcontractors (if any), do the same.

The Supplier hereby waives the right to rely on any retention of title clause not expressly agreed by the Customer. The Supplier warrants that it shall ensure its Subcontractors and suppliers' chain (if any) do the same.

The transfer of risks in the Work and Services and of any element, as referred to above, shall occur in all cases at the date of Acceptance by the Customer in accordance with the provisions of ARTICLE 9. The Supplier shall thus be liable for any damages and losses affecting or relating to the Work and Services and any element, as referred to above, before their Acceptance.

## **ARTICLE 11 – PRICE**

Unless otherwise specified in the Contract, the price(s) stated in the Contract is (are) fixed lump sum(s) and not subject to any revision. The price(s) shall include, but not be limited to all costs incurred by the Supplier for the performance of the Work and Services in accordance with the Contract.



The Supplier shall bear all costs relating to customs duties, taxes, fees and levies for which it is liable in connection with the performance of the Work and Services.

## **ARTICLE 12 – INVOICING AND PAYMENT TERMS**

Invoices shall be prepared in duplicate by the Supplier, in compliance with applicable statutory provisions and in the name of the Customer. The invoices shall be sent to the address specified in the Order Form and shall quote the Contract and the Order Form. The invoices shall be made out in the currency specified in the Contract.

The Customer may request that the Supplier set up an electronic invoicing system. The technical, functional and operational terms and conditions of such system shall be set out in a document drafted and signed by the Parties.

The invoice shall, unless otherwise provided for in the Contract, be paid within thirty (30) days from the last day of the month in which the invoice is issued, i.e. 30 days after the end of the month in which the invoice is issued.

Payment will be made in the manner provided for in the Contract, namely by bank transfer or, exceptionally, by check.

Payment of any invoice shall not affect the Customer's right to subsequently dispute in writing any unjustified charge.

In the event the Customer justifiably disputes all or part of an invoice or of Work and Services, the obligation to pay the sum in dispute shall be suspended. The Customer shall send a memorandum stating the reasons for its dispute. If agreement is reached on the dispute, the Supplier shall correct the invoice.

## **ARTICLE 13 – PERSONAL DATA PROTECTION**

The Supplier warrants, on its own behalf and on behalf of its Subcontractors, if any that it will comply with the regulations in force on processing of personal data, in accordance with the provisions set forth ATTACHMENT 3 – PERSONAL DATA

## **ARTICLE 14– WARRANTIES**

### **14.1 SCOPE AND DURATION**

The Supplier warrants the Conformity of the Work and Services after Acceptance, including but not limited to, a warranty that the Work and Services will be free of any defect of whatsoever nature. Consequently, the Supplier undertakes, for a period of twelve (12) months from the date of Acceptance, to remedy, at its own expenses and risk, as soon as possible and at the latest within any agreed periods, any non-Conformity and any defect affecting the Work and Services after Acceptance. Such expenses shall include, but are not limited to, travel expenses, transport, (spare) parts and labour costs.

In the event the Supplier fails to remedy any non-Conformity, the Customer may, seven (7) calendar days after written notice to the Supplier, perform any remedial work itself or arrange for the same to be performed by a third party, at the Supplier's expenses and risks. Any re-performance of the whole or part of the Work and Services under the initial warranty shall give rise to a new warranty from the Supplier for a minimum period of twelve (12) months from the date of the Customer's Acceptance of such re-performed part of the Work and Services.

In addition to the above, the Supplier shall remain bound by all applicable statutory warranties including the warranty for latent defects.

### **14.2 SPARE PARTS AND INFORMATION SYSTEMS**

The Supplier warrants the prompt availability of all spare parts required for the Work and Services and/or for the proper operation of any associated elements supplied, for a minimum period of ten (10)

years from the date of Acceptance, unless otherwise provided for in the Contract. The applicable price for such spare parts after the contractual or statutory warranty period shall be agreed by the Parties.

In addition to the above, the Supplier warrants that, for the same period, it shall maintain the requisite skills for maintenance of the processors, operating systems and software delivered with any equipment, system or element that form part of the Work and Services.

## **ARTICLE 15 – AUDITS – QUALITY**

### **15.1 AUDITS AND QUALITY MANAGEMENT**

The Supplier represents that it has a quality management system in place.

Provided it informs the Supplier seven (7) calendar days in advance, the Customer or its representative shall be entitled to conduct audits at the facilities of the Supplier or its Subcontractors, or at any other site, before and/or during the performance of the Contract.

In connection with the Contract, such audits shall cover compliance with all of the Supplier's obligations, whether contractual, regulatory, or concerning standards or best practices in the industry. Information obtained shall not be used for purposes other than the audit and its consequences.

Such audits conducted by the Customer shall not in any way lessen the Supplier's contractual liability, in particular with regard to the extent of its own controls and shall not affect the Customer's right to refuse all or any portion of the Work and Services. The Supplier shall provide to the Customer all assistance necessary for carrying out such audits.

### **15.2 TRACEABILITY**

In respect of any equipment and tools used by the Supplier and the elements delivered to the Customer in connection with the Work and Services, the Supplier undertakes, upon the Customer's written request, to provide the Customer with:

- All information necessary to identify the origin, place and date of manufacture of the same;
- The results of the controls carried out;
- Any other relevant information, such as serial or batch numbers.

## **ARTICLE 16 – INTELLECTUAL PROPERTY RIGHTS – INFRINGEMENT**

### **16.1 INTELLECTUAL PROPERTY RIGHTS**

#### **16.1.1 Specific/ Bespoke elements**

In consideration for the remuneration included in the price specified in the Contract, the Supplier shall assign to the Customer, and warrants the assignment by its personnel, its Subcontractors (if any) and their personnel, of all intellectual property rights pertaining to any specific elements prepared to meet the Customer's specifications, including but not limited to plans, studies, models, designs and drawings, user guides, technical documentation, manuals, and documents (hereinafter referred to as the "Specific Elements").

This assignment shall be exclusive and shall include all rights to exploit such Specific Elements: the rights of reproduction, representation, translation, adaptation and sale, on all media and for all forms of use and exploitation. This assignment shall be made for the whole duration of the intellectual property rights, for all countries and in all languages.

This assignment of intellectual property rights shall occur as and when such Specific Elements are created.

#### **16.1.2 Standard elements**

In case the Work and Services contain standard elements protected by intellectual property rights (including but not limited to standard plans, manuals, documents and software), delivered to the Customer by the Supplier, in consideration for the remuneration included in the price specified in the Contract, the Supplier hereby grants the Customer, the entities of TOTALENERGIES that may be beneficiaries of the Contract and third parties acting on behalf of the Customer and/or the entities of TOTALENERGIES that may be beneficiaries of the Contract, a personal and non-exclusive right to

use, reproduce, represent, translate and adapt such standard elements for TOTALENERGIES own needs. These rights shall be granted for the entire duration of the intellectual property rights protection, for all countries and for all media.

In case of transfer by the Customer to a third party of any equipment or any material or asset, which embodies or uses a standard element, the above Customer's right to use shall be transferred to such third party at no additional cost.

## **16.2 INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

The Supplier guarantees that it and its Subcontractors (if any), is either the owner of all intellectual property rights pertaining to any delivered elements or that it has been granted all necessary licences from third parties owning these intellectual property rights, in order that the Customer can freely use and exploit such elements in accordance with the provisions of articles 16.1.1 and 16.1.2.

The Supplier shall indemnify and hold the Customer harmless against any and all claims, costs, damages, expenses or legal action by third parties arising out of or in connection with any infringement or any other breach of their intellectual property rights. This warranty shall not apply if the Supplier can prove that the infringement alleged is attributable to the Client.

In the event of a risk of a claim or legal action, the Supplier shall take all steps necessary to ensure that the risk of infringement is eliminated, shall inform the Customer thereof and shall take into account the Customer's business constraints.

In case an allegation is made that the Customer may not use an element which forms part of the Work and Services without infringing a third party's intellectual property right, the Supplier shall, at its own cost and at the sole option of the Customer, either replace the element in respect of which such allegation is made, or modify such element so that the infringement or any other breach no longer exists, in compliance with the specifications applicable to such element. Such replacements or modifications shall be performed within periods compatible with the Customer's needs. Should the Supplier fail to make such replacements or modifications, the Supplier undertakes to reimburse the Customer for the price of the Work and Services.

The above provisions do not affect the Customer's right to claim damages from the Supplier and/or to terminate the Contract in accordance with the provisions of article 20.1.1.

## **ARTICLE 17 – LIABILITY – INSURANCE**

### **17.1 LIABILITY**

Each Party shall be liable for any damage that it, its employees, representatives and Subcontractors, cause to the other Party or to a third party in relation to the Work and Services and/or arising in connection with the performance of the Contract. Such Party shall indemnify and hold the other Party and its insurers harmless against any damage, cost and/or liability that the other Party may suffer in this respect.

### **17.2 INSURANCE**

The Supplier shall take out and maintain in force and shall procure that any Subcontractor takes out and maintains in force and effect the following insurance policies, at their own expenses throughout the entire period of performance of the Contract including any extension thereof:

(a) Workers Compensation and Employers Liability: For all its employees engaged in performing Services, workers compensation and employers liability insurance or similar social insurance in accordance with applicable Law which may be applicable to those employees.

(b) Comprehensive General Liability: Comprehensive general liability insurance coverage and policy limits of \$5,000,000.00, providing coverage for injury, death or property damage resulting from each occurrence and \$4,000,000 in the aggregate.

(c) Automobile Liability: Automobile liability insurance covering owned, non-owned and rented automotive equipment with policy limits of \$500,000.00 coverage for injury, death, or property damage resulting from each accident.

Supplier shall also carry and maintain in force any other insurance required by Law or any other provision of the Contract. Notwithstanding any provision of the Contract to the contrary, Supplier's insurance policies shall: (1) cover Customer and Affiliates as additional insured to the extent of Supplier's indemnification responsibilities under this Agreement; and (2) be primary as to all other policies (including any deductibles or self-insured retentions) and self insurance which may provide coverage. It is further agreed that Supplier and its insurer(s) providing coverage required under this Section shall waive all rights of subrogation and/or contribution against Customer and Affiliates to the extent liabilities are assumed by Supplier. It is further expressly agreed that Supplier's insurance shall apply to Supplier's indemnity and defense obligations under this Agreement.

At Customer's option and expense, Customer may elect to furnish or to arrange for Supplier all or any part of the insurance required in this section. If Customer elects this alternative, it shall so state in a notice to Supplier, and Supplier's compensation shall be reduced by an amount equal to the cost of the insurance. Furthermore, as an alternative and at Customer's option and expense, Customer may elect to furnish or to arrange for Supplier the insurance that Supplier carries, or to assume the responsibility, for all or any part of the property. If Customer elects this alternative, it shall so state in a notice to Supplier and Supplier's compensation shall be reduced by an appropriate amount.

Upon request by Customer, Supplier shall have its insurer(s) furnish to Customer certified copies of the required insurance policies and/or certificates of insurance specifying that no insurance shall be canceled or materially changed while Services are in progress without thirty (30) calendar days prior written notice to Customer. Supplier shall require any Subcontractors to maintain normal and customary insurance, but shall not require Subcontractors to carry insurance that would duplicate the coverage of the insurance carried by Supplier or Customer or that would insure against liability waived by Customer. Upon request by Customer, Supplier shall have its Subcontractors furnish the same evidence of insurance required. Supplier and its Subcontractors shall not begin Services until all of the insurance required of Supplier and its Subcontractors are in force and the necessary documents, if requested by Customer, have been received by the Customer.

All policies must include an additional insured, hold harmless, waiver of subrogation and thirty days cancellation endorsement.

Prior to commencing performance of the Work and Services and at each insurance policy's renewal required throughout the duration of the Contract, the Supplier shall provide the Customer with the certificate(s) issued by its insurer or by its insurance broker certifying the existence of the above mentioned insurance policies, the insured amounts, the type of coverage and the period of cover of the policy or policies.

None of the amounts set out above shall be construed or interpreted as limiting the Supplier's liability in any respect.

## **ARTICLE 18 – FORCE MAJEURE**

None of the Parties shall be deemed to be in breach of their contractual obligations to the extent that their non-performance is due to an event of force majeure as recognised by the law and the courts. Force majeure shall only relieve the affected Party from its contractual obligations to the extent and for such period as the said Party is prevented from performing its obligations. Each Party shall bear all its own expenses resulting from the occurrence of a force majeure event.

The Party affected by an event of force majeure shall immediately notify the other Party (“the Non-Defaulting Party”) of the situation by fax confirmed by registered letter with receipt, and shall provide all necessary documentary evidence of the force majeure event. The Non-Defaulting Party shall have the right to verify the existence of the situation. The Party invoking an event of force majeure shall make every effort to mitigate as far as possible any adverse effect arising from this situation.

In all events, strikes which are limited to the personnel of the Supplier or of its Subcontractors shall not relieve the Supplier from its liability for late performance or for any failure to perform and shall therefore not be deemed to be a force majeure event. Force majeure does not include the enactment and/or implementation and/or enforcement of Sanctions Laws / Regulations.

If the event the situation giving rise to an event of force majeure continues for longer than fifteen (15) consecutive calendar days, the Non-Defaulting Party shall be entitled to terminate the Contract immediately as of right and without compensation. The Supplier shall reimburse to the Customer any amount already paid in advance pursuant to the Contract and not corresponding to the Work and

Services already performed or to elements already delivered at the time of occurrence of the force majeure event.

## **ARTICLE 19 – ASSIGNMENT – SUBCONTRACTING**

### **19.1 ASSIGNMENT – CHANGE IN CONTROL**

The Supplier shall not assign the Contract to any third party, in whole or in part, without the prior written consent of the Customer. The Customer shall be entitled to assign all or part of the Contract to any legal entity of the Customer's group, subject to a prior written notice regarding such assignment being sent to the Supplier.

In the event of a change of Control of the Supplier, the Supplier shall promptly notify the Customer thereof. A change of Control is deemed to include any contribution, assignment, merger or other operation which modifies the Control, whether directly or indirectly, of the Supplier; Control shall mean the ownership, direct or indirect, of the majority of shares giving voting rights of a company or the right to appoint the majority of the members of the board of directors. Within thirty (30) calendar days following receipt of such notice, the Customer shall have the right to terminate the Contract (with the exception of the Order Form(s) in the course of being performed) without compensation on giving two (2) months' prior notice.

Where the Contract is assigned by the Supplier to a third party, each and every right of the Customer arising by virtue of the Contract, including the right to claim damages, shall be enforceable against said third party. The Supplier shall remain jointly and severally liable with the assignee towards the Customer for the full performance of the Contract.

### **19.2 SUBCONTRACTING**

The Supplier shall not subcontract all of the Work and Services to a Subcontractor or any third party, such as a supplier of services. Should the Supplier wish to assign a portion of the Work and Services, it shall:

- In respect of its suppliers, provide the Customer with prior written notice, specifying the type and the origin of the supply and comply with the applicable statutory provisions;
- In respect of its Subcontractors, obtain the Customer's prior written consent and comply with the applicable statutory provisions. Any request for the Customer's consent shall indicate, amongst other things, the type and the extent of the Work and Services to be subcontracted and the qualifications of the proposed subcontractor. The Supplier shall prohibit its own Subcontractors from subcontracting in turn all or a portion of the Work and Services entrusted to them by the Supplier, except with the consent of the Customer in accordance with the provisions above.

In the event the Supplier fails to comply with the statutory obligations in respect of subcontracting, the Customer shall be entitled to immediately suspend any payment due to the Supplier so long as the latter continues to fail to perform such statutory obligations, but without prejudice to the Customer's right to terminate the Contract in accordance with the provisions of article 20.1.2.

In any event, any consent given by the Customer to the Supplier to use a subcontractor and/or a supplier shall not relieve the Supplier from its contractual obligations in connection with the subcontracted portion of the Work and Services. The Supplier shall remain solely liable for the proper performance of the whole Work and Services and the Supplier shall indemnify and hold the Customer harmless from and against any and all claims by the Supplier's subcontractors and/or suppliers or by their respective employees.

## **ARTICLE 20 – TERMINATION**

### **20.1 TERMINATION FOR NON-PERFORMANCE**

**20.1.1** Either Party shall be entitled to terminate the Contract in the event of a breach of an obligation under the Contract by the other Party but only following the expiry of fifteen days (15) written notice sent by registered letter with acknowledgment of receipt. The Customer shall so be entitled to terminate the Contract in the event of defect or breach or failure relating to the Conformity or to the condition of the performance of the Works and Services.

**20.1.2** The Customer shall be entitled to terminate all or any part of the Contract as of right and without prior notice, but only in the following situations:

- in the event of repeated breaches by the Supplier as set out in article 20.1.1; or
- because of the Supplier's breach(es) of one or more rules concerning health, hygiene, safety, working conditions or environmental protection that may be detrimental to persons or property; or
- in the event the consequences of such breaches are irreparable, in particular in the event of non-compliance with ARTICLE 5 entitled "Registrations, Approvals, Authorizations", article 6.2 entitled "Compliance with the periods and deadlines for performance – Incentives for late performance" and ARTICLE 22 entitled "Confidentiality"; or
- in any other circumstance so provided for in the Contract.

In such cases, termination shall be effective immediately upon receipt by the Supplier of the notice of termination.

**20.1.3** In the event of termination of the Contract by the Customer for non-performance, the Supplier shall immediately reimburse the Customer for all payments made by the Customer insofar as such payments exceed the value of the Work and Services decided by the Customer as being in Conformity. Furthermore, the Customer shall be entitled to require the Supplier to bear all possible additional costs necessary for the completion of the Work and Services either by the Customer itself or by any third party.

The right of a Party to terminate the Contract for non-performance is without prejudice to its rights to claim damages against the other Party.

## **20.2 TERMINATION AT THE INITIATIVE OF THE CUSTOMER**

The Customer shall be entitled to terminate the Contract, at any time on giving thirty (30) calendar days' notice (unless a different notice period is specified in the Contract) by registered letter with acknowledgment of receipt. In this case and from receipt of such notice, the Supplier shall take all measures necessary to cease as soon as possible the performance of any Work and Services in progress. Termination of the Contract shall put a stop to the performance of pending Order Forms or only of the Order Forms expressly covered by the termination.

In such case, for the relevant firm Order Form(s), the Customer shall pay to the Supplier the price payable for any Work and Services completed at the effective date of termination, and shall also pay to the Supplier a termination fee of an amount equal to five percent (5%) of the price(s) of the Work and Services which will not be performed due to such termination.

If the Supplier documents definitively and reasonably incurred necessary expenses that exceed this five percent (5%) termination fee, and that correspond to specific investments made with the Customer's agreement to meet the performances expected in the Contract, the Parties may agree on a specific termination fee other than this amount of five percent (5%).

This termination fee shall be a lump sum and shall cover any damages. Furthermore, the Supplier shall waive any right of recourse against the Customer for any amount in addition to such fee.

## **20.3 TERMINATION IN THE EVENT OF INSOLVENCY**

Unless contrary to any statutory provision of public policy, the Customer shall be entitled to terminate immediately the Contract, as of right and without formal notice, in the event the Supplier has a petition for its winding up presented or advertised, calls a meeting with a view to going into liquidation, or otherwise enters into liquidation or has a petition presented for the appointment of any administrator in respect of the Supplier's business.

# **ARTICLE 21 – FUNDAMENTAL PRINCIPLES OF PURCHASING, ANTI-CORRUPTION UNDERTAKINGS, ECONOMIC SANCTIONS AND EXPORT CONTROL**

## **21.1 FUNDAMENTAL PRINCIPLES OF PURCHASING**

The Supplier undertakes to acquaint itself and to comply and cause its Subcontractors (if any) to comply with the Fundamental Principles of Purchasing (FPP) set out in the Attachment to the GCITP entitled “Fundamental Principles of Purchasing (FPP)”.

## **21.2 ANTI-CORRUPTION UNDERTAKINGS**

The Supplier undertakes to acquaint itself and to comply and cause its Subcontractors (if any), to comply with the provisions of anti-corruption pursuant to ATTACHMENT 1 “Anti-corruption undertakings”.

## **21.3 ECONOMIC SANCTIONS**

The parties must perform this Agreement in compliance with export control and international economic sanctions laws or regulations that apply to the Parties. Neither party shall be obligated to perform any obligations under this Agreement if this would not be compliant with, in violation of, inconsistent with or expose a party to punitive measures under any laws, regulations applicable to the parties relating to export control and/or international economic sanctions. In this event, such party (“Affected Party”) shall, as soon as reasonably practicable give written notice to the other party of its inability to perform. Once such notice has been given the Affected Party may either:

- i. Suspend the performance of the affected obligation under this Agreement until the Affected Party may lawfully discharge such obligation or;
- ii. Terminate this Agreement where the Affected Party may not lawfully discharge such obligation.

TEMPR shall not be responsible for the payment of any damages to the other party in the event of a violation of Sanction Regulations.

TEMPR’s Sanction program will not be audited by any party.

Sanctions Regulations means any law, regulation, embargo or another restrictive measure (economic, financial, trade, etc.) relating to economic sanctions and export controls applicable to the parties, which is enacted, administered, imposed, implemented and/or enforced from time to time by any Sanctions Authority with jurisdiction over the parties and the products or services.

Sanctions Authorities means any competent authority of the United States of America, the European Union or de Republic of France in charge of enactment, administration, implementation and enforcement of Sanctions Regulations.

Sanctioned Person means any individual or entity listed on a Sanctions List.

## **ARTICLE 22– CONFIDENTIALITY**

Any information provided by the Customer to the Supplier in connection with the performance of the Contract and all Specific Elements created by the Supplier in connection with the performance of the Work and Services shall be treated as strictly confidential by the Supplier. All and any information which the Supplier could be aware of in connection with the performance of the Contract, in particular those concerning the Customer's organisation, activities and results, shall also be treated as strictly confidential by the Supplier. Any such information and/or all specific elements mentioned above shall only be used by the Supplier and by its Subcontractors (if any), for the purposes of the performance of the Contract and in connection with the performance of the Work and Services, and shall not be disclosed to any third party or to any of the Supplier’s personnel not assigned to the performance of the Work and Services, except to the extent the disclosure is mandatory by virtue of any statutory obligations or by virtue of any court decision .

The obligation of confidentiality shall not apply to information provided by the Customer which is already in the public domain without breach by the Supplier of the obligations set out in this ARTICLE 22 and/or which have been lawfully obtained by the Supplier from any third party having the right to disclose such information.

The Supplier undertakes to comply, and to procure its personnel and any Subcontractors comply with this obligation of confidentiality throughout the entire duration of the Contract and for a period of five (5) years following the termination of the Contract for whatever reason.

The Supplier shall, at the expiry or termination of the Contract, for whatever reason, return to the Customer the information provided by the Customer and all data obtained by the Supplier, together with all copies thereof which the Supplier may have at its disposal in connection with the performance of the Contract, or shall, upon written request of the Customer, destroy the confidential information and data.

## **ARTICLE 23 – REFERENCE TO THE CUSTOMER'S TRADEMARKS AND BUSINESS NAMES**

The Supplier shall not be entitled to use or make reference to the business names, trademarks or logos of the Customer or of the Customer's group, without the prior written consent of the Customer.

## **ARTICLE 24 – APPLICABLE LAW – JURISDICTION**

By mutual agreement, the Parties shall attempt to amicably resolve any dispute, including by mediation. However, such attempt shall not be a mandatory precondition to initiating proceedings before the court with jurisdiction as defined below.

Unless otherwise specified in the Contract, the Contract shall be governed by the laws of the Commonwealth of Puerto Rico.

## **ARTICLE 25– MISCELLANEOUS PROVISIONS**

### **25.1 INDEPENDENCE OF THE PARTIES**

The Contract has been concluded between independent Parties. None of its provisions shall be interpreted as giving the right or mandate to either Party to act on behalf of the other Party nor as implying any association, agency, partnership or society between them, or as creating a joint and several liability between them.

### **25.2 PARTIAL INVALIDITY**

Should any provision of the Contract be or become invalid or unenforceable under any law, regulations or court decision, such provision shall be considered as not written. All other provisions of the Contract shall, however, remain valid.

### **25.3 WAIVER**

The waiver by either Party of a breach of any of the provision of the Contract shall not be construed as a waiver of any further breach of the same or other provisions, nor shall any delay or omission by either Party to exercise any right herein operate as a waiver of any breach by such Party.

### **25.4 SURVIVING PROVISIONS**

The provisions of article 3.2.2, ARTICLE 10, ARTICLE 14, ARTICLE 15, ARTICLE 16, ARTICLE 17, ARTICLE 22, ARTICLE 23, ARTICLE 24, ARTICLE 25 and any other provision of these Conditions which is intended to apply after termination of the Contract shall survive the termination of the Contract for whatever reason and shall continue notwithstanding such termination and thereafter remain in full force and effect.



## **ATTACHMENT 1 – ANTI-CORRUPTION UNDERTAKINGS**

Supplier represents and warrants that it did not, and it will not, offer, pay, promise to pay, authorize the payment, or transfer, of an amount of money, a gift, anything of value or any other advantage, either directly or indirectly, to an official or any other person while knowing, or being aware of a high probability, that all or a portion of such money or object of value will be offered, given or promised, directly or indirectly, to an official, in order to: (i) secure any improper advantage or benefit in relation to the matters contemplated by this Agreement; (ii) affect or influence the act, decision or omission of such official; (iii) obtain or retain business related to this Agreement; (iv) direct business related to this Agreement to any person; or (v) obtain any other improper advantage or benefit.

For the purpose of this Section, an official shall refer to any officer or employee of any government or any department, agency, subdivision or instrumentality thereof, or any person acting in an official capacity on behalf of any such government, department, agency, subdivision or instrumentality, whether appointed, elected, honorary or employed, including any person holding a legislative, administrative or judicial office, including any person exercising a public function for a public agency, a public enterprise or a public international organization) and any officer or employee of a public international organization.

All invoices rendered to TEMPR shall accurately and in reasonable detail reflect all activities and transactions undertaken in the performance of the Agreement. TEMPR reserves the right to audit all payments made by or on behalf of Supplier for services performed under this Agreement for the purpose of determining whether there has been compliance with this Section.

Supplier represents and warrants that no Public Official or Close Family Member of a Public Official owns any beneficial interest in Supplier's business or is a director, officer or agent of Supplier. This representation and warranty shall continue so long as this Agreement remains in effect. Supplier agrees to notify TEMPR promptly and in writing of any developments that would or may affect the accuracy of the foregoing representation or warranty. Supplier nor any employee or agent of contractor shall give to or receive from any director, employee or agent of the TEMPR any gift, entertainment or other favor of significant value or any commission, fee or rebate. Supplier or any employee or agent of Supplier shall not enter into any business relationship with any director, employee or agent of the TEMPR, or any Affiliate, unless such person is acting for and on behalf of TEMPR, without prior written notification thereof to TEMPR. If any violation of this Section occurs, TEMPR may terminate this Agreement immediately, suspend payment and/or require any reimbursement of any advance payment made.

## **SUSTAINABLE DEVELOPMENT**

As part of the transformation to a multi-energy company, TotalEnergies has placed Sustainable Development at the center of its strategy, projects and operation. TotalEnergies Marketing Puerto Rico Corp. ("TEMPR") wishes to actively contribute to this goal of conserving our environment by delivering cleaner energy, developing our work teams, conserving resources, and creating the greatest possible value within the market we serve. We urge all our suppliers and contractors to join in us this goal. TEMPR will be monitoring the progress of your participation in this project.

## **ATTACHMENT 2 – FUNDAMENTAL PRINCIPLES OF PURCHASING (FPP)**

In accordance with the fundamental principles set out in particular in the United Nations Universal Declaration of Human Rights, the Conventions of the International Labour Organization, the United Nations Global Compact, and the OECD Guidelines for Multinational companies, Dealers, Contractors and/or Suppliers are required to comply with - and to make sure that their own suppliers and subcontractors comply with – current laws, as well as principles equivalent to those defined below:

- **Respecting human rights at work:**

- Ensure that working conditions and remuneration of workers preserve human dignity and are consistent with fundamental principles defined and protected by the Universal Declaration of Human Rights, by the fundamental principles of the International Labour Organization, and in particular with rules relating to the prohibition of forced labor and child labor, workplace safety, the establishment of an employment contract, working time, rest and parental leave, treatment of discrimination and harassment at the workplace, freedom of speech, association and collective bargaining, freedom of thought, conscience and religion;
- Improve their standards and procedures concerning human rights at work.

• **Protecting health, safety, and security:**

- Perform risk analysis and assessments in these areas and implement appropriate means to prevent those risks;
- Establish a system for monitoring events that occurred in these areas.

• **Preserving the environment:**

- Implement an appropriate environment risk management system, in order to identify and control the environmental impact of activities, products or services, to continuously improve environmental performance, and to implement a systematic approach to define environmental objectives, achieve them and demonstrate that they have been achieved;
- Undertake the improvements needed for protecting the environment;
- Limit the impact of industrial activities on the environment.

• **Preventing corruption, conflict of interests, and fighting against fraud:**

- Fight against fraud;
- Prevent and ban any form of corruption: active or passive, private or public, direct or indirect;
- Avoid conflicts of interest, in particular when personal interests may influence professional interests.

• **Respecting the competition law:**

- Comply with the applicable competition law.

• **Promoting economic and social development:**

- Create a climate of trust with stakeholders, engaging in a dialogue with local communities, promoting local sustainable development initiatives, and giving local companies the opportunity to develop their business.

Compliance with these laws and principles may be audited.

## **ATTACHMENT 3 – PERSONAL DATA**

Supplier undertakes to comply with the regulations in force on processing of personal data.

When the Supplier processes personal data on behalf of the controller, in its capacity as a data processor, guarantees that it provides sufficient safeguards to implement appropriate technical and organizational measures to ensure the processing will meet the requirements of the Applicable Regulation and guarantees the protection of the individual's rights.

# ATTACHMENT 4 – HYGIENE, SAFETY AND THE ENVIRONMENT

## 1 DEFINITIONS

**Good Industry Practice:** Practices, methods and procedures and that degree of skill, diligence, prudence and foresight which would reasonably be expected to be observed by a professional, skilled and experienced contractor of international repute engaged in carrying out activities the same as, or similar to, those contemplated under the Contract under the same or similar circumstances.

**HSE:** hygiene, safety and the Environment.

**Environment:** soil, subsoil, water, air, species and their habitats and interactions.

**HSE Event:** an HSE Incident, a Near-Miss or an abnormal situation or action including those that deviate from a standard, specification, procedure or rule.

**HSE Incident:** any sudden event on a given date which causes injury, illness or death, damage to assets or property, loss of production, or harm to the Environment or to the Customer Group's corporate image.

**HSE Management System** means one of the components of the global management system of a Party contributing to the management of the HSE risks involved in any of his/its activity related to the Contract or the performance of the Work and Services. It includes the organisational structure, the planning activities, the responsibilities, practices, procedures, processes and resources (i.e property and equipment and Personnel) for establishing, implementing, reviewing and maintaining the HSE policy and continuously improving the HSE performances.

**Near-Miss:** any event not constituting an HSE Incident but which, in slightly different circumstances, might have generated identical consequences to those of an HSE Incident.

## 2 GENERAL

The Customer places and requires the Supplier to place the highest importance and priority on HSE matters at all levels of its organization during the performance of the Work and Services.

In performing the Work and Services under the Contract, the Supplier shall at its own cost, and shall cause its Subcontractors to, take all the appropriate precautions and measures to :

- (i) safeguard the health of the people that may be affected by the performance of the Work and Services,
- (ii) ensure high safety levels in performing the Work and Services,
- (iii) avoid or mitigate negative impacts on the environment and
- (iv) protect the Customer's property, equipment and personnel at the Site.

## 3 HSE COMPLIANCE

In performing the Work and Services under the Contract, the Supplier shall comply, and shall cause its Subcontractors to comply, with:

- All applicable laws relating to HSE matters;
- The HSE standards that would be expected in accordance with Good Industry Practice;
- The Customer's Golden Rules for safety at work;
- The rules, regulations and operating procedures prevailing on the Site with respect to HSE matters and Site access conditions;
- Any process and procedures relating to simultaneous operations and work permits on the Site;
- HSE plans, work authorizations and other associated permits (including hot work permit, confined space entry permit, digging permit);
- Any specific requirements set out in this Attachment and as the case may be in any other attachments.
- The Supplier shall take into account any additional opportunities to reduce risks in terms of HSE.

#### **4 SUPPLIER'S CORPORATE HSE POLICY AND HSE MANAGEMENT SYSTEM**

The Supplier shall maintain and implement a corporate HSE policy consistent with Good Industry Practice in HSE matters and with the Customer's HSE policy.

The Supplier shall maintain and implement a HSE Management System consistent with its Corporate HSE Policy and with the Customer's HSE management system, including all relevant procedures to ensure:

- (i) prevention and mitigation of HSE risks;
- (ii) compliance with the provisions of Article 3 above;
- (iii) monitoring, and reporting to the Customer, of the implementation of the requirements of this Attachment and monitoring progress against HSE objectives pre-established by the Supplier;
- (iv) the qualification and the ability of the Supplier's personnel and the personnel of its Subcontractors to carry out the required tasks and the correct maintenance and adaptedness of processes, tools, materials and the equipment to the HSE risks associated with the performance of the Work and Services.

The Supplier shall give evidence of its Corporate HSE Policy and HSE Management System and their implementation upon request of the Customer. Where the HSE Management System has been certified, information to be provided with respect to such certification shall include level and duration of certification. Any modification relating to such certification shall be communicated without delay to the Customer.

Data on the Supplier's HSE performance at the Site may be used freely by the Customer for regular internal and/or external reporting or publication.

#### **5 HSE PLAN**

Before the start of the Work and Services, the Supplier shall:

- (i) perform a Site visit and survey to assess the HSE conditions;
- (ii) perform a HSE risk analysis, using adequate analysis methods, and covering all HSE risks likely to result from the performance of the Work and Services. Such HSE risk analysis shall fully take into account any information made available by the Customer concerning local specificities impacting HSE;
- (iii) on the basis of the above, establish a HSE Plan consistent with the provisions of this Attachment, and setting out the HSE requirements (namely all the appropriate precautions and measures to prevent and mitigate HSE risks) relevant to the specificities of the Work and Services, taking into account all the Supplier's procedures necessary for the proper performance of the Work and Services.

The HSE Plan shall be drawn up and communicated to the Customer before commencing the Works and Services.

Any modification to the HSE Plan during the course of the Work and Services shall be communicated to the Customer before starting the concerned work.

The Supplier shall be responsible for performing the Work and Services in compliance with the HSE Plan.

#### **6 SUPPLIER HSE ORGANIZATION**

The Supplier shall give evidence to the Customer upon its request that it has an organization and all the necessary resources to adequately implement the Supplier HSE Plan.

The Supplier shall ensure that the Supplier's personnel and the personnel of its Subcontractors are aware of and committed to its Corporate HSE Policy, its HSE Management System, the HSE Plan and the task risk assessments required under Article 7 below.

The Supplier shall appoint a HSE representative responsible for :

- (i) supervising and monitoring the implementation of the Supplier HSE Plan and the HSE rules in force at the Site and

- (ii) communicating with the Customer. The Supplier shall inform the Customer of the contact details of such HSE representative.

The Supplier shall be responsible for ensuring at its own cost the safety of all personnel involved in the performance of the Work and Services. This shall include, inter alia, the providing of appropriate personal protective equipment.

The Supplier shall demonstrate to the Customer upon its request evidence of a safety information handover system for shifts and crew change and shall be responsible for its implementation.

The Supplier shall set up a medical fitness control policy and shall be responsible for its implementation. The Supplier shall, and shall cause its Subcontractors to, perform all relevant and timely assessments to ensure that the Supplier's personnel and the personnel of its Subcontractors involved in the Work and Services are medically fit for the job they are assigned to.

The medical fitness files of the Supplier's personnel and the personnel of its Subcontractors must be available for presentation at all times to all competent authorities in the course of the performance of the Work and Services.

The language used in managing all HSE issues shall be appropriate to ensure proper communication among the Supplier's personnel and the personnel of its Subcontractors and with the Customer's personnel.

## **7 WORK PERMIT PROCESS**

The Supplier undertakes to comply with the work permit process applicable on the Site.

Within this framework, the Supplier shall in particular:

- Provide the Supplier's personnel and the personnel of its Subcontractors with initial training on the work permit process and keep their skills maintained over time ;
- Ensure that the hazards related to the tasks have been formally identified, and that the associated risks have been analysed and assessed;
- Not start any Work and Service without holding a duly validated work permit wherever such permit is required;
- Promptly stop the intervention and inform the Customer in the event of discrepancy between the conditions set out in the work permit and the actual conditions of the intervention.

## **8 COMMUNICATION WITH THE CUSTOMER**

The Supplier shall set up and implement a HSE monitoring and reporting system for the Customer's benefit. Such system shall, inter alia, allow the reporting to the Customer of any HSE Event as provided at Article 14 below and of any risk likely to modify the HSE risk analysis provided at Article 5 above .

Where relevant, prior to the commencement of the Work and Services, the Customer and the Supplier shall cooperate in implementing HSE measures with the aim of preventing HSE risks related to simultaneous operations.

The Supplier shall actively participate in any HSE meetings organised by the Customer at kick-off and/or during the course of the Work and Services.

## **9 HAZARDOUS SUBSTANCES AND MATERIALS, WASTE**

All procedures involving the handling, storage, use or disposal of hazardous substances or materials, as defined by the applicable laws, for the performance of the Work and Services shall be addressed in the HSE Plan.

The Supplier shall also take into account any list of hazardous substances and materials present on the Site, made available by the Customer, as well as any assessment of the related HSE risks.

The Customer reserves the right to deny the Supplier the right to use certain hazardous substances or materials at the Site.

The Supplier shall ensure that the safety data sheets and any other hazard information corresponding to any hazardous substances and materials used in the performance of the Work and Services shall be at all times available at Site to the Customer.

The Supplier shall set up an efficient waste management system complying with the applicable laws and with any specifications provided by the Customer.

## **10 ENVIRONMENT**

The Supplier shall identify and evaluate all potential impacts on the Environment related to the performance of the Work and Services and shall implement all appropriate measures to prevent and/or mitigate these impacts. These measures shall be included in the HSE Plan.

## **11 SUBCONTRACTORS**

The Supplier shall select its Subcontractors through an appropriate HSE qualification process having due regard to their HSE performance, their ability to implement an HSE policy consistent with the Supplier's Corporate HSE Policy.

The Supplier shall cause its Subcontractors to maintain and implement a HSE management system that is compatible with that of the Supplier.

The Supplier shall ensure that its Subcontractors are capable of complying with requirements identical to those set out in this Attachment.

The Supplier shall set up and implement a system allowing it to monitor the HSE performance of its Subcontractors as well as their compliance with requirements identical to those set out by the provisions of this Attachment.

The Supplier shall ensure that the HSE roles and responsibilities between the Supplier and the Subcontractors are clearly defined.

## **12 COMPETENCY AND TRAINING**

The Supplier shall inform the Customer of the presence of any new personnel, namely personnel having less than 6 months experience in the relevant type of activities or less than 6 months presence on the Site and shall provide such new personnel with an appropriate HSE support plan.

The Supplier shall ensure that the HSE awareness of Supplier's personnel and the personnel of its Subcontractors is continuously maintained and enhanced through an appropriate training plan.

The Supplier shall ensure that Supplier's personnel and the personnel of its Subcontractors attend any HSE induction program requested by the Customer.

Before the start of the Work and Services, the Supplier shall inform the Supplier's personnel and the personnel of its Subcontractors assigned to the Work and Services of the risks and measures implemented.

The Supplier shall ensure that the Supplier's Personnel and the personnel of its Subcontractors hold at all times the certificates of proficiency necessary or useful to perform the Work and Services.

Upon request by the Customer, the Supplier shall demonstrate that the Supplier's personnel and the personnel of its Subcontractors have been provided a HSE training relevant for the performance of the Work and Services at the Site, including a test on the Customer's Golden Rules for safety at work. The content of the HSE training and certificates shall be made available to the Customer upon request.

## **13 EMERGENCY PREPAREDNESS**

Upon request by the Customer, the Supplier shall communicate to the Customer an emergency response procedure and have due regard to any comment by the Customer.

The Supplier shall ensure that Supplier's personnel and the personnel of its Subcontractors on the Site participate in any Site emergency drill organized by the Customer and in programmed safety exercises.

## **14 HSE EVENT MANAGEMENT**

The Supplier shall without delay report to the Customer any HSE Event on the Site or occurring during the performance of the Work and Services, taking into account the actual or potential severity of the HSE Event.

Upon the occurrence of an HSE Event, the Supplier shall:

- take without delay all the necessary corrective and preventive measures to mitigate the effects of the HSE Event and prevent any new HSE Event, including if necessary by initiating modification of the HSE Supplier Plan;
- provide the Customer with all relevant information related to the HSE Event and assist the Customer in the gathering of evidence and analysis of the causes of the HSE Event;
- take full account of the findings of the analysis of the causes within its HSE Management System and the HSE Plan.

Any member of the Supplier's personnel or of the personnel of its Subcontractors who believes that a task, whether or not a part of the Work and Services, is unsafe or could lead to an HSE Event, shall be entitled, with no personal repercussion, to request the suspension of such task until resolution of the concern.

Without prejudice to the provisions of Article 17 below , the Customer reserves the right to direct any emergency response measures.

In case of an illness or bodily injury or search and rescue operations involving the Supplier's Personnel and the personnel of its Subcontractors, the Customer will endeavor to provide assistance to such personnel. The Supplier shall defend, indemnify and hold harmless the Customer Group from any claim arising out of or in connection with any member of the Customer Group's providing, failing or inability to provide such assistance and/or the performance of such operations.

The costs of such assistance provided by the Customer to the Supplier's personnel and the personnel of its Subcontractors shall be borne by the Supplier.

## **15 HSE AUDITS**

The Supplier shall include in the HSE Plan and perform periodical inspections and internal HSE audits of the Supplier's personnel and the Supplier's resource during the performance of Work and Services at Site. The observations made during these audits must be communicated to the Customer and translated into a regularly reviewed action plan.

The Supplier shall regularly audit the performance of its HSE Management System and its implementation.

Audits may be conducted by the Customer under Article ARTICLE 15 "AUDITS - QUALITY" of the GCWS on any HSE aspect of the performance of the Work and Services.

The Supplier shall conduct regular safety observations, covering all of the Supplier's Personnel involved in the Work and Services. The results of its observations must be communicated to the Customer.

## **16 SITE CLEAN-UP**

Upon completing all or part of the Work and Services on the Site, the Supplier shall remove, at its own expense and responsibility:

- all Supplier's resource;
- temporary installations;
- any wreck, debris and generally any waste; and,
- unless otherwise agreed, any surplus of materials.

The Supplier shall clean up and, where relevant, restore and rehabilitate the Site in compliance with this Attachment .

If the Supplier fails to satisfy the above requirements, the Customer, following prior notification to the Supplier, shall have the right to perform (or have performed) removal, clean-up, restoration and rehabilitation operations at the Supplier's cost and expense, at any time.

## **17 CONSEQUENCES OF NON-COMPLIANCE**

Without prejudice to any other provision of this Contract, in the event of non-compliance by the Supplier with any of the provisions of this Attachment, the Customer:



- may promptly notify the Supplier that the Customer is or will take, at the Supplier's expense, all appropriate measures to correct such non-compliance should the Supplier fail to meet its obligations without delay or within the time set out by the Customer;
- reserves the right to deny access to, or the continued presence of, the Supplier or any member of the Supplier's personnel and the personnel of its Subcontractors on the Site;
- may suspend the performance of any or all parts of Work and Services in accordance with the provisions of the Contract ;
- may terminate the Contract in accordance with the provisions of Article 20.1.2 of the GCWS.

In the event of a fatality on the Site, the Customer may suspend the performance of any or all parts of the Work and Services in accordance with the Contract.

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**For the Supplier**

**(Company stamp, date, name, capacity and signature)**