



**ERG GROUP**

**GENERAL SPECIFICATIONS FOR THE TENDERING  
OF SERVICES**

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## 1 SCOPE OF APPLICATION OF THE GENERAL SPECIFICATIONS

- 1.1 The present General Specifications for the tendering of Services (hereinafter, the “**Specifications**”) apply to each contract that ERG S.p.A., or another company directly or indirectly controlled by the same, enters into, in its capacity as client (hereinafter, the “**Client**”), with a third-party (the “**Contractor**”) for the performance of services of any type or nature (hereinafter, the “**Services**”). The Specifications, together with the special terms and conditions and the other specific documents regarding the Services and indicated therein (including, to list only some of the possible examples, the order, the technical specifications, the fee/price schedules, the timeline for the activities and the design documents) (the “**Special T&Cs**”), constitute a full and integral part of the contractual relationship between the Client and the Contractor (the “**Contract**”).
- 1.2 The provisions of the Specifications are applied in full, unless provided otherwise in the Special T&Cs. In the event of discrepancies, the provisions of the Special T&Cs shall take precedence over those of the present Specifications.
- 1.3 By signing the Contract, the Contractor declares that it has examined and accepted in full, and unconditionally, the contents of the present Specifications.

## 2 DEFINITIONS

Whenever the following terms are used in the present Specifications, they shall have the meanings indicated below:

- a) “**Contractor’s Representative**”: the person who, being in possession of the necessary technical-professional skills and know-how, fills the role referred to in clause 5.
- b) “**ERG Group**”: all the companies directly or indirectly controlled by ERG S.p.A.
- c) “**Client’s Representative**”: the person assigned to represent the Client, as specified under clause 4.

## 3 WORKPLACE SAFETY, ENVIRONMENT PROTECTION, DATA SECURITY

- 3.1 The Contractor undertakes to comply with, and to ensure that all its employees as well as any other individuals whom it engages for the performance of the Services, including any sub-contractors, also comply with, all the laws and regulations currently in force with regard to environment protection, health and safety, prevention of accidents at the workplace and hygiene at the workplace, including all the company measures and procedures that may be indicated and supplied by the Client, as provided for in the Document “HSE Specifications – Health, Safety and Environment”, handed over separately, as well as all measures and regulations currently governing information security and personal data protection.
- 3.2 The Contractor, therefore, undertakes to strictly comply with all the laws and regulations currently in force, as well as with all the specific measures currently in force within the production plants, storage facilities and offices of the Client, all of which the Contractor declares that it has knowledge of, having received the relevant information and documentation from the Client itself.
- 3.3 The Contractor declares that it has already visited the areas where the Services are to be performed and that it is fully informed and aware of the risks inherent to the workplaces involved in the tender, having received from the Client all the necessary information on the aforementioned risks and the measures of prevention and emergency response adopted by the Client itself.
- 3.4 The Contractor also undertakes to inform its workers, including any subcontractors, of the contents of the aforementioned documents.
- 3.5 The Contractor further represents and warrants that it has assessed the subject matter of the Contract, on the

basis, among other things, of its own consolidated experience in the field, and with reference to the documentation sent to it by the Client.

- 3.6 The Contractor declares that it has taken into account, in formulating the compensation for the Services, and for the activities covered by the Contract in general, all the information received from the Client, as well as the current status of the sites and so it waives, since the acceptance and signature of the Contract, any additional compensation or indemnification, assuming itself all resulting expenses and risks.
- 3.7 The Contractor undertakes not to perform, for any reason whatsoever, either on its own behalf or for third parties, other services apart from those assigned to it by the Client.
- 3.8 The Contractor represents and warrants that it possesses the authorisations and licenses required to carry out the activities covered by the Contract, apart from those expressly identified as being the responsibility of the Client under the applicable statutes and regulations.

#### **4 CLIENT'S REPRESENTATIVE**

- 4.1 The Client can identify an individual a person in charge of managing the tender (the “**Client's Representative**”) as its representative for the purposes of the Contract.
- 4.2 The Representative of the Client may:
  - maintain exchanges with the Contractor regarding technical considerations related to the performance of the Contract;
  - provide the Contractor with instructions for the proper performance of the Services and, more in general, for all the activities covered by the Contract;
  - control and certify the quality and the quantity of the materials and the resources employed in carrying out the Services, ensuring that they are performed according to the highest professional standards;
  - report faults and discrepancies in the Services, delays in their performance and any other shortcomings observed, starting procedures of non-conformity in accordance with the relevant provisions of the Contract;
  - assess the Services, and the related accounting records, together with the Contractor.
- 4.3 All requests regarding the Services to be carried out, or any other issues that may arise, shall be sent by the Contractor's Representative to the Client's Representative.
- 4.4 The Contractor's personnel shall have no relations with the Client's employees.
- 4.5 The Client's Representative (or his/her substitute), in order to perform the controls required to carry out his/her activities, shall have access to the working areas at the times, and with the frequency, that he/she deems necessary.
- 4.6 The Client's Representative is entitled to formally request, for a justified reason, that any staff member or employee of the Contractor, or of any subcontractors, be removed from the worksite.
- 4.7 Under no circumstances shall the Client's Representative, or any substitutes of the same, be entitled to agree to, and/or to make, any type of modifications or additions to the Contract.
- 4.8 In carrying out his/her assigned tasks, the Client's Representative shall neither bear any responsibility whatsoever towards the Contractor, nor towards any third party, for any event or damage that could occur in the course of, or on the occasion or as the result of, the performance of the Services.

- 4.9 The tasks assigned to the Client's Representative shall not include any activities involving the management of the worksite or the supervision of the workers and of the materials utilised in carrying out the Services, all of which are tasks that shall and must remain the exclusive burden and responsibility of the Contractor.

## 5 CONTRACTOR'S REPRESENTATIVE

- 5.1 The Contractor shall appoint, under its own responsibility and at its own expense, an individual possessing the necessary technical-professional qualifications and skills who will supervise that the services under the Contract are carried out in full compliance with the provisions of the Contract and with the highest professional standards (the "**Contractor's Representative**").
- 5.2 The name of this person must be communicated to the Client by the Contractor in writing.

## 6 COSTS TO BE BORNE BY THE CONTRACTOR

- 6.1 In addition to what provided under other clauses of these Specifications and under the Special T&Cs, the following shall be the full responsibility and expense of the Contractor, being understood that the list is indicative only and not exhaustive:
- a) the work of its own technical and administrative personnel, as well as that of specialised and common workers, involving the management and performance of the Services;
  - b) the procurement of the equipment and tools used in carrying out the work under the Contract;
  - c) the costs of the insurances required under applicable law as well as the wages and benefit contributions for all the personnel;
  - d) the duties, taxes, licenses and fees connected with the Contract and levied by government authorities and/or other authorities with jurisdiction over the Contract;
  - e) expenses for travel, local transport, trips and meals and accommodation for personnel;
  - f) consumable and recurring materials, accessories for assembly and installation, working equipment and scaffolding, protective and safety clothing, individual protective equipment and, in general, any and all equipment and materials for the performance of the Services, all in accordance with the relevant legal standards provided by laws, regulations, as well as by the internal regulations of the Client's facilities, production plants, warehouses or offices;
  - g) ordinary and extraordinary maintenance of its own working materials and equipment, as well as their repair and the supply of consumables (fuel, lubricants etc.);
  - h) expenses for the transport, insurance, surveillance and custody of the materials, equipment, sheds and vehicles required for the performance of the Services, it being understood that the Contractor indemnifies and holds the Client harmless of any responsibility in the event of theft, fire or damage;
  - i) the collection, transport and disposal, in compliance with the laws currently governing such matters, of waste and debris generated by the performance of the Services.
- 6.2 As the Contractor will be operating in areas where other works/services may be performed by the Client and/or by third parties, either at the same time or at subsequent points in time, the Contractor:
- (i) undertakes to verify, prior to initiating the Services, that the conditions of the areas allow the performance of the Services in a complete state of safety;
  - (ii) further undertakes to constantly maintain and hand over to other contractors and/or the Client the

working areas in conditions of absolute safety;

- (iii) undertakes, from this point forward, to relieve and indemnify the Client with regard to any and all liabilities in connection with the undertakings mentioned above;
- (iv) undertakes to comply with the provisions included, applicable on a case by case basis, in the Document of assessment of interferences' risks ("Documento valutazione rischi da interferenze" – "DUVRI"), which must be attached to the Special T&Cs, as provided for under the "HSE Specifications – Health, Safety and the Environment", handed over separately.

6.3 Difficulties of any type arising from the simultaneous performance of other work/services by third parties and/or by the Client shall not entitle the Contractor either to request additional compensation or to postpone the deadlines for the completion of the Services.

6.4 The Contractor shall also be responsible for any other expense, even those not expressly indicated herein, that should be necessary for performing and completing the Services in conditions of absolute safety, according to the highest professional standards and within the terms agreed between the parties.

## **7 OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR**

7.1 The Contractor acknowledges and agrees that the activities shall be performed by way of its own independent business organisation, managed at its own risk, through the use of its own capital and equipment, and with personnel under its employ, properly hired, paid and insured according to applicable law. With regard to what is specified above, the Contractor, in performing the activities, shall assume all responsibilities towards the Client, as well as towards public authorities and third parties, indemnifying and holding the Client harmless from all responsibilities, costs and expenses of any type resulting from the performance of the activities.

7.2 As regards the services carried out at production plants, storage facilities and offices, the Contractor shall not be allowed to perform them unless the Client has issued a specific work permit duly signed by the authorised personnel of the Client, and of the Contractor itself.

7.3 In the event that the Contractor, to carry out the activities under the Contract, needs to bring into an area owned by the Client hazardous substances or mixes, then the Contractor is required to request prior authorisation from the Client, having first presented the safety data sheet for the aforementioned substances or mixes.

7.5 The Contractor undertakes to present to the Client, prior to the commencement of the Services, a document containing a risk assessment, drawn up in accordance with arts. 17 and 28 of Legislative Decree 81/08, for the specific activities that its personnel will perform inside the area owned by the Client.

7.6 The Contractor undertakes, by waiving from now on any request for additional compensation and/or indemnity, to comply with whatever instructions the Client may give to the Contractor from time to time, so as to avoid obstacles or disturbances in the proper performance of other works underway.

7.7 The Contractor shall comply with all the provisions of the applicable laws, decrees and regulations currently in force. The Contractor specifically undertakes to comply with all the standards and regulations related to the laws currently governing work and social security, including, without limitation, the provisions of Legislative Decree 81/08 on the prevention of accidents at worksites, workplace hygiene and obligatory insurance against accidents at the workplace and work-related illnesses, as well as any other measure currently in force and which may come into play, at during the validity of the contract, for the safeguarding of workers. The Contractor undertakes to indemnify and hold the Client, as well as the other companies of the ERG Group, harmless with regard to any claims that might be brought against the same by such workers, for any reason whatsoever. Furthermore, the Contractor undertakes to indemnify and keep the Client and the other companies of the ERG Group indemnified in the event that the provisions of this clause 7 are not fulfilled and/or are not fulfilled properly. Should one of the Contractor's employees suffer an accident during

the performance of the Services on the premises of the Client, then the Contractor shall immediately notify the Client, specifying the extent of the injury, the identifying information on the injured person and the details of how the accident occurred.

- 7.8 The Contractor undertakes to apply to its personnel, employed in the contractual activities, an economic, regulatory and social security treatment no less beneficial than the one provided for under the collective bargaining contracts currently in force, as well as any relevant supplements to the same, as well as to comply with all the remuneration, social security, contribution and fiscal obligations provided for under applicable law or those collective bargaining contracts and to indemnify and hold the Client, as well as the other companies of the ERG Group, harmless with regard to any claims that might be brought against the same by such workers in this regard.
- 7.9 The Contractor shall outfit its personnel not only with the individual protective equipment needed for the performance of the Services, but also with whatever equipment may be required by the Client, based on the specific risk conditions of the plant and/or area in which the aforementioned personnel will be working.
- 7.10 It is also understood that, under the Contract, no relationship of salaried employment is established between the Client and the personnel of the Contractor, and/or the personnel of any subcontractors used in the performance of the Services.
- 7.11 The Contractor shall be held responsible for all damages to individuals or objects caused to the Client or to third parties due to inexact fulfilment by the Contractor of its contractual obligations.
- 7.12 The Contractor is prohibited from employing minors as workers engaged in any of the activities indicated under Legislative Decree 262/2000 which could potentially expose workers to specific risks and which, therefore, require a well-established experience on the part of the workers (e.g. welding, work at heights, the assembly/disassembly of scaffolding, confined spaces etc.).
- 7.13 The Contractor undertakes to allow the Client to carry out possible controls of the personnel employed by the Contractor.
- 7.14 The Contractor shall perform all the activities covered by the Contract in full compliance with all laws and regulations currently in force, including the laws/measures governing the employment of personnel with proper foreign resident work permits and the proper handling and disposal of waste.
- 7.15 The Contractor shall operate in such a way that all the documents (invoices, debits, credits, financial summaries etc.) sent to the Client, as provided for under the Contract, suitably reflect the facts related to the activities and operations performed on behalf of the Client, so as to allow the Client to carry out any registration or documentation in a complete and accurate manner.
- 7.16 Under all circumstances, the Contractor undertakes to indemnify and hold the Client harmless and the companies of the ERG Group in the event that the provisions of the present clause are not fulfilled or are not properly fulfilled. It is understood that failure by the Client to formulate complaints with regard to the performance of the Services, even following the activities of surveillance and inspection referred to in the preceding paragraphs, cannot be viewed as a limitation on any responsibility of the Contractor, in the event of a breach of its obligations under the Contract, no matter how the breach has been discovered, and even if it came to light following the surveillance and controls referred to above.

## **8 EQUIPMENT AND MACHINERY FOR THE PERFORMANCE OF THE SERVICES**

- 8.1 The use of any tool, equipment or piece of machinery by the Contractor shall be made at the full and total risk of the latter. Furthermore, the Contractor shall always be required to control, both before and after use, that the tools, equipment or machinery in question satisfy all the standards and requirements currently in force and especially those provided for under Legislative Decree 81/08. As a rule, the Client will not supply tools, equipment or machinery to the Contractor. In the event that, with the authorisation of the Client, the

Contractor will use work devices or equipment supplied by the Client on an exceptional basis, then their use shall be subject to the same requirements indicated above.

- 8.2 Should it be contractually agreed that the Client, for the performance of the Services, provides the Contractor with goods, materials or equipment, or anything else meant to be utilised in the course of the contractual activities, the Contractor undertakes to ensure the custody and maintenance of such goods and to use them solely for the purposes provided for under the Contract, while remaining responsible for them in any event, as the party by whom they are being kept.
- 8.3 In keeping with the needs and demands of the performance of the Services, the goods/materials of the Client shall be kept apart from the goods that are the property of the Contractor, with the Client always being entitled, at any point in time, to proceed with an inspection of the quantities and conditions of the materials in question.
- 8.4 The Contractor is required to return the goods, materials and equipment received from the Client in perfect working order at the conclusion of the performance of the Contract, and any expenses or other effort required to meet this obligation shall be borne by the Contractor.
- 8.5 The Contractor expressly agrees that, should it sustain losses, malfunctions and/or damage of any kind while performing the Services, for any reason not attributable to the Client, then it shall not be entitled to receive any indemnity from the Client.
- 8.6 As such, the Contractor assumes the risks and burdens resulting from any losses, malfunctions or damage to the works, either in progress or completed, as well as to any work devices, materials and equipment.

## **9 RESPONSIBILITIES OF THE CLIENT**

- 9.1 Unless otherwise provided under the Special T&Cs, the Client shall be responsible for the following procedures, should they prove necessary for the performance of the Services covered by the Contract:
  - (i) making available a supply of water for industrial purposes, in keeping with the needs of the Client, from the point where the nearest outlet is found;
  - (ii) making available electric energy for both motor force and lights, to be supplied from the nearest outlet.

No limitations and/or suspensions of the supply shall entitle the Contractor to request additional compensation and/or indemnities.

## **10 GUARANTEES**

- 10.1 The Contractor warrants that the Services will fulfil the purposes for which they have been planned, and that they will be carried out according to the highest professional standards, in compliance with the contractual specifications and that they will be free of faults and defects, including hidden ones.
- 10.2 The Contractor also warrants that the materials which it supplies to be used in the performance of the Services will be of the utmost quality, free of faults and defects, including hidden ones, and with characteristics suitable for the performance of the Services.
- 10.3 When applicable, the guarantee period shall last for 18 (eighteen) months from the date of the acceptance of the Services, unless a different period of time is agreed under the Special T&Cs and without prejudice to the applicability of the provisions of art. 1669 of the Italian Civil Code.
- 10.4 During the guarantee period, the Contractor shall be required, at its own expense, to carry out/do over in timely fashion, upon simple written request from the Client, whatever parts should be found defective due to faulty materials or imperfect execution, or which should otherwise fail to meet the stipulated prerequisites

of functional performance and/or guarantee, without the Client having to observe any deadlines for the notification of such defects.

- 10.5 Should the Contractor fail to satisfy in timely fashion the requests of the Client referred to in the preceding paragraph, or fail to do so within whatever deadline is given to the Contractor, then the Client may arrange for the services to be performed by third parties, charging the resulting expenses to the Contractor, while also retaining the right to seek compensation for damages, including those occasioned by delayed use of the works covered by the Contract.
- 10.6 In the case of parts executed anew/done over, the guarantee shall be understood to be automatically renewed for the same initial period, starting from the date on which the work is done to resolve the problem.

## **11 VARIATIONS IN THE SERVICES**

- 11.1 Within the deadlines for the completion of the Services, as set under the Special T&Cs, the Client shall be entitled to request, and the Contractor shall be obliged to carry out, any and all types of variations in the Services.
- 11.2 Following a request for a variation, the Contractor shall prepare, and shall promptly submit to the Client's Representative, a detailed estimate of any increase or decrease in the amount of compensation for the tender, in order to enact the variation requested, basing the estimate on price schedules included as annexes to the Contract. After the Client and the Contractor have reached an agreement on the value of the increase or decrease in the compensation, as a result of the variation, the variation itself shall be validated by amending the Contract accordingly.
- 11.3 Only variations resulting from written amendments to the Contract (i.e. variation of the order) shall be recognised as valid.
- 11.4 If such amendments to the Contract do not indicate variations in the deadlines for the completion of the Services, then it shall be understood that they are to be carried out by the deadlines originally assigned for the completion of the entire project.
- 11.5 Notwithstanding the above provisions, the Contractor shall be required to carry out any variations in the Services requested by the Client even when no agreement is reached on the extent of the increase or decrease in the value of compensation as a result of the variation.
- 11.6 The Contractor also shall be obliged to implement whatever variations are requested by the Client because they prove necessary and unavoidable for the performance of the Services in accordance with the highest professional standards, having been occasioned by unforeseen events that occurred during the performance of the Contract and that are capable of affecting the characteristics of the Services.
- 11.7 The Contractor may request the Client to implement those variations that it believes should be made in the Services. To this end, the Contractor shall prepare and promptly submit to the Client's Representative a detailed estimate of any increase or decrease in the amount of the compensation for the tender required to implement the variation requested. The Contractor may not proceed with the performance of the variant without the prior written consent of the Client, and in any event, it shall continue to perform the Services as provided in the Contract.
- 11.8 With regard to the provisions of the present clause, the Contractor irrevocably declares that it waives any and all of its rights under arts. 1660, 1661, 1664 and 1467 of the Italian Civil Code.

## **12 ACCEPTANCE OF THE SERVICES**

- 12.1 The Services must be carried out according to the highest professional standards, in compliance with the

contractual documents and in full respect of any provisions of laws, decrees and regulations in force at the time of their performance.

- 12.2 The Client shall approve, when the relevant need arises, procedures of technical implementation of the Services which are not already fully defined in the contractual documents, without assuming, in any event, any sort of responsibility nor reliving the Contractor of its responsibilities.
- 12.3 The Client reserves the right to make written communication of any other technical instructions while the execution of the Services is underway.
- 12.4 Once the services have been completed, the Client and the Contractor, shall cooperate to carry out any test, control and observation needed to verify whether the Services have been performed and completed in accordance with the contractual documents.
- 12.5 Should the outcome of the tests, controls and observations be positive, then the “Report of Acceptance of the Services” shall be written up and signed by both parties. Otherwise, the Contractor shall, in response to the first, simple request from Client, perform/do over, under the responsibility and at the expense of the Contractor itself, and in accordance with the terms and conditions requested by the Client, whatever the latter holds not to have been carried out in keeping with the highest professional standards and/or in accordance with the contractual documents.
- 12.6 Should the Contractor fail to comply with the above, the Client may either take care of the matter by itself, or it may assign the task to third parties. In any event, the Contractor shall be responsible for all the resulting expenses, with the Client also being entitled to receive compensation for damages, including consequential damages.

### **13 COMPENSATION AND SERVICES ACCOUNTING**

The compensation for the performance of the Services covered by the Contract and the procedures for the accounting of the Services shall be those provided for under the Special T&Cs.

### **14 PAYMENTS**

- 14.1 Unless otherwise provided under the Special T&Cs, payments shall be made by direct remittance at 60 (sixty) days from the end of the month in which the date of the invoice, issued at the conclusion of the activities, falls.
- 14.2 The bank receiving the payments may not be located in a country other than the one in which the Contractor has established its registered office, which may also be a secondary office.
- 14.3 For the purpose of receiving the payments, the Contractor shall issue a self-declaration substituting a notarised deed as per Presidential Decree no. 445 of 28 December 2000, based on Circolare no. 40/E of 8 October 2012 and Circolare no. 2/E of 1 March 2013 issued by the tax authority, on the proper fulfilment of tax and social security obligations (withholding tax on the income of salaried employees), without which the payment cannot be made. More precisely, the Contractor shall declare, and will ensure that each of its authorised subcontractors also declare, that they have met all their obligations towards employees entitled to such treatment, and towards the State Treasury/Government Authorities, by: (i) paying employees’ wages, plus the related quotas of severance pay; and (ii) collecting and depositing the withholding taxes on income from salaried employment (IRPEF income tax, social security and welfare supplements and contributions), relevant to the invoices involving the services performed as part of the project covered by the Contract.
- 14.4 The aforementioned declaration must be sent together with each invoice, along with a currently valid version of the Consolidated Document of Regular Payment of Taxes (“Documento Regolarità Contributiva – DURC”), in the absence of which the invoice shall not be paid. The procedures for payment shall be those

provided for in the Contract.

## **15 DEADLINES FOR DELIVERY**

- 15.1 Unless it has already been provided under the Special T&Cs, the Contractor undertakes to submit to the Client for approval a time schedule suitable to ensure completion of the Services in compliance with the deadline for delivery set under the Contract.
- 15.2 The time schedule approved by the Client is binding on the Contractor. The Client reserves the right to make modifications in the approved time schedule, based on the Client's needs, and also in the case the Services are underway, and the Contractor undertakes to accept the modifications, without this in any way giving the Contractor the right to move the deadline for delivery or to obtain additional compensation or indemnities.
- 15.3 The Contractor acknowledges and agrees that complying with the time schedule is an essential element of the Contract. It follows that, for the entire duration of the Services, the Contractor shall maintain an adequate level of organisation, means and materials, to ensure completion of the Services in full compliance with the schedule.
- 15.4 Should the Services be delayed, with respect to the timing provided for in the schedule, then the Client shall be entitled to split off a portion of the Services and assign it to third parties, having first determined which activities have been carried out by the Contractor up to that point. The outcome of this assessment must be positive, as otherwise the Client will not recognise proper fulfilment of the Services carried out.
- 15.5 Any increased expenses that the Client may sustain because of the scenario described in the preceding paragraph, shall be charged to the Contractor, deducting them from the overall compensation of the Contract, but with the Client still being entitled to compensation for damages.

## **16 DELAYS ATTRIBUTABLE TO THE CLIENT**

- 16.1 Any delays in the performance of the Services, or of a portion of the same, for causes attributable to the Client and detrimental to the compliance with the deadlines for delivery, shall entitle the Contractor to an extension in the deadline for delivery equal to the number of days of the delay attributable to the Client, without ever taking into account any secondary effects.
- 16.2 Should the conditions for application of the above extension occur in the opinion of the Contractor, then the latter shall have 8 (eight) calendar days from the occurrence of the event, with failure to meet this deadline voiding any claim to the extension, to give written notice to the Client which shall also express its opinion in writing.
- 16.3 In the event of total or partial acceptance by the Client of the reasons for the Contractor's request, the new deadlines for delivery shall be set in writing.
- 16.4 In relation to the content of the present clause, the Contractor shall not be entitled to either indemnities nor additional compensation from the Client.

## **17 DELAY – SUSPENSION OF THE SERVICES AT THE REQUEST OF THE CLIENT**

- 17.1 The Client shall be entitled to delay the commencement date of the Services. The Client is also entitled to order a total or partial suspension of the Services for any period of time it deems appropriate.
- 17.2 Under the scenarios contemplated above, the worksite shall remain fully prepared in terms of its equipment and materials, unless otherwise authorised in writing by the Client.
- 17.3 The Contractor shall be entitled to an extension of the deadline for the completion of the Services, equal to

the period of delay or suspension, without taking into account secondary effects. The Contractor shall not be entitled to neither additional compensation nor to any type of reimbursement or indemnification.

- 17.4 The Contractor is prohibited from suspending or delaying fulfilment of any of its obligations under the Contract on account of complaints and/or disputes that should arise with regard to the contractual activities.

## **18 STRIKES**

- 18.1 Should there be a strike in which the Contractor's personnel takes part, then the Contractor shall ensure that its personnel immediately leaves the worksites of the Client where the Services are being performed, though the Contractor shall still be responsible for any damage to people and/or goods that occurs subsequent to, or during the period of, the interruption of the Services, or on account of a failure to guard the worksite, or due to the abandonment of work devices and/or materials and/or equipment.

## **19 FORCE MAJEURE**

- 19.1 The deadlines for the performance of the Services may be postponed for a period equal to the duration of any force majeure events, should they occur during the performance of the Contract. The only events considered to qualify as force majeure are accidental or exceptional occurrences that fall outside any possibility of control by the Contractor and that impede, in all or in part, the performance of the Services. To mention only some of the possible examples of force majeure, these can include: explosions, fires, natural disasters (e.g. flooding, earthquake), wars, revolutions and nationwide strikes, orders and/or acts issued by authorities with jurisdiction over the parties, with the exception of those issued following acts and/or omissions by a party, in violation of laws and/or regulations and/or applicable measures.
- 19.2 In terms of calculating an eventual extension of the deadlines for delivery, each day of the duration of the force majeure events shall result in an equal postponement of the deadlines for the completion of the Services, without ever taking into account secondary effects.
- 19.3 The Contractor undertakes to immediately notify the Client, by means of a registered letter with return receipt and/or a fax and/or by certified e-mail ("PEC"), of the occurrence or the cessation of such events, together with an estimate, where possible, of their duration.
- 19.4 Should the force majeure event persist for more than 30 (thirty) consecutive calendar days, the Client shall be entitled to withdraw from the Contract without anything being owed, under any title nor for any reason, to the Contractor.
- 19.5 Adverse weather conditions, such as snow, rain etc., shall not constitute a cause of force majeure.
- 19.6 Events due to causes of force majeure shall not entitle the Contractor to any indemnification nor additional compensation, neither for the longer duration of the Services, nor for any loss of equipment, nor for any shutdown of the worksite, nor for any other reason whatsoever.
- 19.7 Delays in the performance of the Services are not considered to be force majeure events when they are due, for example to:
- (i) shutdowns of worksites ordered by the competent authorities on account of failure on the part of the Contractor to observe safety measures;
  - (ii) delays by the Contractor in procuring materials and/or services;
  - (iii) delays on the part of subcontractors;
  - (iv) strikes limited to the facilities and to the employees of the Contractor, or of any subcontractors,

including small-scale conflicts and states of unrest, as well as participation by the Contractor's employees in strikes of any type that are not national or industry-wide.

- 19.8 In cases of force majeure, the Contractor shall be required to do whatever is necessary to reduce the damaging effects suffered by the Client as result of the force majeure event/s.

## **20 PENALTIES FOR DELAYED DELIVERY**

- 20.1 Unless otherwise provided under the Special T&Cs, should the Contractor fail to meet the contractual deadlines for the completion of the Services, with respect to either the entire project or individual parts of the same, then it shall be subject to the penalties indicated in the Special T&Cs, without prejudice to the Client's right to compensation for any additional damage it should suffer on account of the delay.
- 20.2 Payment of the penalties shall be made by the Contractor upon first written demand by the Client, which shall also be entitled to withhold the amounts of the penalties from any sums owed to the Contractor or, as a further option, to offset the penalties with the 10% amount of consideration for the tender withheld as a guarantee or enforce any warranty ("fideiussione") that might have been provided for under the Special T&Cs.
- 20.3 Should it occur that, for reasons attributable to the Contractor, the Services have not yet been completed by the end of the period of time corresponding to the maximum penalty contemplated, then the Client shall be entitled, at its sole and binding judgment, to terminate the Contract for breach on the part of the Contractor, as per the provisions and effects of article 1456 of the Italian Civil Code, by means of a simple written communication to the Contractor, to be sent in the form of a registered letter with return receipt, or via registered e-mail ("PEC"), to the address indicated in the Special T&Cs, and with the Client retaining the right not only to request payment of the penalties provided for under the Contract, but also to obtain compensation for further damages.

## **21 INVARIABILITY OF PRICES**

- 21.1 Unless otherwise explicitly agreed, prices and fees set as compensation shall remain fixed and invariable, regardless of any type of circumstance that may arise, including unpredictable ones, that may cause the activities of the Contractor to become excessively burdensome. It follows that the provisions of arts. 1467 and 1664 of the Italian Civil Code shall not apply.
- 21.2 Should the Special T&Cs explicitly contemplate a revision of the contractual prices, then the party that is seeking such revision shall communicate to the other party such request no more than 2 (two) months from the date on which the circumstances justifying the party's request for a revision arose, being understood that failure to meet this deadline by such party shall preclude such party from seeking such revision.
- 21.3 Requests for price revisions from the Contractor shall be communicated to the Client by sending a registered letter, and they must be accompanied by the official documentation necessary to demonstrate that a variation has occurred and to confirm its value.
- 21.4 Price revisions shall be granted only for the portion of Services not yet carried out at the time the variation occurred. The accounting documentation shall be the basis for identifying such Services.
- 21.5 Any extension of the contractual deadline for delivery of the Services, due to causes attributable to the Contractor or to force majeure events, shall not entail in itself any right for the Contractor to obtain any price revision nor anything else, for the period of the relevant extension.
- 21.6 The accounting for the price revision, with respect to all the Services carried out under the Contract, shall be made once and upon completion of the Services.

## **22 INSURANCE**

- 22.1 The Contractor shall be required to take out, under its own responsibility and at its own expense, with a leading insurance company, all insurance policies mandated by law for its activities, including:
- a) a suitable insurance policy for all personal injuries, as well as for damage to the property of the Client and/or of third parties, caused by the movement and/or use of the vehicles employed;
  - b) an insurance policy that covers damage to goods, including those of the Client, as well as all risks tied to civil liability towards third parties, with a suitable cap, for any damages to individuals and/or goods that might occur during, or as a result of, the activities covered by the Contract.
- 22.2 For the purposes of coverage of Civil Liability towards Third Parties, the Client, the Contractor and third-party contractors and suppliers shall all be considered “third parties” to one another under the policy.
- 22.3 The policies referred to under preceding paragraph 22.1, shall provide for the coverage to be valid even in the event of gross negligence on the part of the insured party, or of gross negligence and/or of wilful misconduct by its employees and/or individuals for whose actions the insured party is liable under the law. The policies in question shall also provide for the insurer to waive any and all of its rights to bring claims against the Client (or the administrative officers and/or employees of the same, and/or individuals for whose actions the Client is liable) as well as against the companies controlled by or affiliated with the Client. The policies shall also provide for the insurance company to undertake not to pay out damages to the contracting party without prior consent of the Client, nor to proceed with any cancellations or suspensions of the coverage, nor for any early termination of the insurance contract, unless advance notice of at least 30 (thirty days) is given to the Client, sent by registered letter with return receipt.
- 22.4 The Client shall be entitled to examine the policies referred to in this clause at any point in time, as well as the documentation demonstrating that the related insurance premiums have been paid on time.
- 22.5 In addition to the obligations referred to in the above paragraphs, the Contractor shall assume all the risks inherent to the performance of the Services, undertaking to compensate any and all damages, none excluded, in the event that said damages were not eligible for compensation or would not be compensated under the terms of the aforementioned policies.

## **23 CONFIDENTIALITY AND PERSONAL DATA PROCESSING**

- 23.1 The Contractor undertakes not to disclose to third parties, nor to use in any way, for any reason that is not closely related to the performance of the Services, any information, technical and otherwise, concerning the Client and/or the companies of the ERG Group or procedures, designs, equipment, devices, machinery etc., which might be placed at its disposal by the Client (in paper form or otherwise), or which the Contractor comes to know of in some other way through the performance of the Services. Such confidential information, therefore, may not be copied or reproduced without the prior written consent of the Client. Finally, all confidential information made available during the performance of the Contract, including any copies of the same, shall be returned or destroyed in secure fashion upon completion of the Services, or at the request of the Client, unless the Contractor is required by law, or authorised by the Client, to retain this confidential information.
- 23.2 The obligation of confidentiality shall be binding on the Contractor for 2 (two) years after all obligations set under the Contract are fully completed, unless a longer period of confidentiality is set under applicable laws and regulations.
- 23.3 Should the present obligations of confidentiality not be observed, the Client shall have the right to terminate the Contract, in accordance with art. 1456 of the Italian Civil Code, and with the Client also being entitled to compensation of all damages suffered on account of the breach. It is understood that no obligation of confidentiality shall apply in case of information that, as of the date of disclosure has already been brought

into the public domain or becomes in any way a matter of public knowledge.

- 23.4 The Contractor shall also be liable to the Client for the strict observance of the confidentiality undertakings referred above also by its employees, by their subcontractors, and by the auxiliaries and employees of such subcontractors..
- 23.5 The Contractor acknowledges that the Client is the controller for the processing of personal data carried out by means of the applications and procedures in relation to which the Works covered by this Contract shall be performed. As such, the Client remains the sole and only responsible in determining the purposes and the modalities relating to the aforementioned processing of personal data by the Client itself and in verifying that the above-mentioned purposes and modalities are in accordance with the contents of the applicable legislation, with particular reference to Regulation (EU) No 679 of 2016 (the “Regulation”).
- 23.6 The Parties mutually acknowledge that the personal data that shall be exchanged between them shall be processed solely for the purpose of executing the Contract, considering that, should such personal data not be exchanged, it may impair the execution, in total or in part, of the Contract. In accordance with the provisions of the applicable law, the Contractor is obliged to notify the Client the names of its personnel which it is necessary to appoint, by Client, as System Administrator or as processor for the processing of personal data.23.7 Where the procedures for executing the Works under the Contract require the Contractor to be liable for the obligations set forth, under the applicable law, in relation to the processing of personal data, the Contractor shall fulfil its obligations and provide the Client evidence of such fulfilment, with particular reference to the appointment of the individuals whose appointment is mandatory under the applicable law.
- 23.8. If necessary under the applicable law, the Parties shall stipulate, by separate deed, the regulation for the appointment of the Contractor as processor for the processing of the personal data pursuant to article 28 of the Regulation, with particular reference to the sole processing activities and only in relation to personal data that the processor shall be required to process in connection with the execution of the Contract on behalf of the Client.
- 23.9 The Contractor acknowledges and agrees on its commitment to ensure that the provisions set forth herein are met also by its subcontractors authorised under the Contract, if any.

## **24 PROHIBITION AGAINST SUBCONTRACTING**

- 24.1 The Contractor is prohibited from assigning to third parties the performance of any and all Services, with violations potentially leading to termination of the Contract, as contemplated under art. 1456 of the Italian Civil Code, together with compensation of the Client for any and all damages and expenses. The Contractor is also prohibited from assigning to third parties the performance of a part of the Services, without prior written authorisation to do so from the Client, with violations potentially leading to termination of the Contract and compensation to the Client of any and all damages and expenses. In such cases, the subcontracting company is also prohibited from subcontracting, in its turn, that part of the Services.
- 24.2 The Client may, however, on an exceptional basis, authorise the subcontracting of specialised services. In such cases, the Contractor’s request to the Client for authorisation to subcontract to third parties a part of the Services shall be drawn up in writing at the time of the bid, clearly indicating the type and part or percentage quota of the Services involved, and it shall be accompanied by copies of the Chamber of Commerce records illustrating the ownership structure of the company, or companies, to which it is proposed that the aforementioned Services be subcontracted, with failure to do so resulting in rejection of the request.
- 24.3 Should the Client authorise the Contractor to subcontract part of the Services to third parties, the Contractor shall remain responsible towards the Client, for the perfect and proper performance of the Services, as well as for all obligations undertaken hereunder.

- 24.4 In the event of subcontracting, under the conditions and with the limitations specified above, the Contractor undertakes to ensure that the subcontractor honours, with respect to its employees, obligations and responsibilities corresponding to those that the Contractor has vis-à-vis the Client that it would meet, especially with regard to the statutes and regulations governing safety and hygiene at the workplace, as well as insurance, contributions and contractual regulations. The Contractor also undertakes to ensure that subcontractors undertake, for their part, not to subcontract the Services assigned to it, neither in all nor in part.
- 24.5 Should the Client determine, at any point in time during the performance of the activities, that the Contractor has not fulfilled its obligations with respect to the activities assigned to a subcontractor, then the Client shall notify the Contractor in writing and the Contractor shall take all necessary actions to cure the breach, including the immediate termination of the subcontracting arrangement and the removal of the subcontractor from the site where the activities are being performed.
- 24.6 Termination of the subcontracting arrangement shall result in the performance of the related activities directly by the Contractor, without any additional expense for the Client, nor shall the Contractor be entitled to any indemnification, compensation of damages or postponement of the deadlines provided for under the Contract.

## **25 COMMUNICATIONS BETWEEN THE PARTIES**

All communications between the Contractor and the Client regarding the Services and the Contract shall be made in writing to the addresses – including the certified electronic-mail address (PEC) – at which the parties elect their domiciles, as indicated under the Special T&Cs.

## **26 ADVERTISING**

The Contractor and any other person involved in the performance of the Services are prohibited from carrying out any activity that amounts to advertising and regards the Services, without the express written authorisation of the Client.

## **27 PATENTS, TRADEMARKS AND LICENSES**

- 27.1 The Client cannot be held in any way responsible and the Contractor shall indemnify and hold the Client harmless from any responsibility, for violations of patents and/or trademarks and/or other trademarks regarding the use of the materials, machinery or working methods employed in the performance of the Services. The Contractor shall be responsible for all expenses regarding any royalties or licensing fees for the use of such patents and/or trademarks and/or other copyrights.
- 27.2 Should the Contractor not fulfil the provisions of the preceding paragraph, then the Client shall be entitled to terminate the Contract, as per art. 1456 of the Italian Civil Code, without prejudice to its right to compensation for damages.

## **28 TERMINATION**

- 28.1 In addition to all other termination provisions contained in the present Contract, the Client may terminate the Contract, as provided under art. 1456 of the Civil Code, without prejudice to its right to compensation for damages, by registered letter with return receipt, or via certified electronic mail (“PEC”), without prior notice, to the address of the Contractor indicated in the Special T&Cs, in the event that:
- (i) the Contractor fails to fulfil its obligations set by the provisions of clause 15 (Deadlines for delivery) of the Specifications;
  - (ii) the Contractor fails to fulfil its obligations set by the provisions of clause 8 (Equipment and machinery for the performance of the Services), or of clauses 12.1 and 12.5 (Acceptance of the Services) or of

- clause 23 (Confidentiality and personal data processing) of the present Specifications;
- (iii) the Contractor fails to comply with the provisions of clauses 24 (Prohibition against subcontracting), 27 (Patents, trademarks and licenses) or 30 (Non-transferability of credits) or 31 (Transfer of the Contract) of the present Specifications;
  - (iv) the Contractor fails to fulfil its obligations set by the provisions of clause 11 (Variations in the Services) of the present Specifications.
  - (v) the Contractor fails to comply with the provisions of clause 3 (Workplace safety, defence of the environment, data security) or clause 6 (Costs to be borne by the Contractor) or clause 7 (Obligations and responsibilities of the Contractor) or clause 10 (Guarantees) or clause 36 (Non-EU Personnel) of the present Specifications;
  - (vi) the Contractor fails to fulfil its obligations set by the provisions of clause 22 (Insurance);
  - (vii) the Contractor becomes insolvent with respect to its creditors or must sell its assets to creditors;
  - (viii) should a proceeding be initiated vis-à-vis the Contractor to dissolution, winding-up, bankruptcy or any other insolvency proceeding contemplated under the applicable law;
  - (ix) should the certifications exhibited or presented by the Contractor for the purpose of obtaining the Contract, or for its performance, prove to be, in any manner or form, irregular;
  - (x) should the Contractor no longer be in possession of the authorisations or licenses needed to exercise the activities covered by the Contract, as per clause 3.8 of the present Specifications;
  - (xi) should the Contractor not possess a proper, currently valid Consolidated Document of Regular Payment of Taxes (“Documento Unico Regolarità Contributiva – DURC”), or, in the absence of that document, should the Contractor not be able to exhibit the necessary receipt of payment, in the form of the F24 tax return for the period in question. Should any subcontractor do not possess a proper, currently valid Consolidated Document of Regular Payment of Taxes (“Documento Unico Regolarità Contributiva – DURC”), then the Client shall have the right to revoke the authorisation for subcontracting.

## **29 WITHDRAWAL**

- 29.1 The Client shall be entitled to withdraw from the Contract at any point in time, with no need to state a reason for doing so. The withdrawal shall not be effective for the activities already performed. In the event of withdrawal, no additional compensation and/or indemnity of any type (including compensation for unearned income) shall be due to the Contractor for the Services not carried out after the withdrawal, even if this constitutes an exception – when relevant – to art. 1671 of the Italian Civil Code.
- 29.2 From the date on which the withdrawal takes effect, the Contractor shall cease all contractual activities while ensuring that this cessation does not cause any damage for the Client.
- 29.3 The right of withdrawal of the Contractor is expressly excluded.
- 29.4 The Contractor undertakes to include in the contracts that it enters into with subcontractors to perform the Contract, clauses suitable to commit the subcontractors to obligations that match those stipulated in the above points, with the Contractor to be held responsible, should such obligations not be fulfilled, for any damages suffered by the Client.

### **30 NON-TRANSFERABILITY OF CREDITS**

- 30.1 The Contractor shall not transfer to third parties, as per art. 1260, second paragraph, of the Italian Civil Code, any credit to which it is entitled according to the Contract, so that the Contractor shall be responsible to the Client, as well as to any assignees, for any violations of this covenant. Neither shall the Contractor be entitled to grant to third parties special mandates for the collection of funds or any other forms of delegation of payments.
- 30.2 The Client reserves the right, in certain cases, to authorise the transfer of credits to banks to its liking.
- 30.3 If authorised, transfer shall apply to all credits resulting from all the contracts in force with the Contractor.
- 30.4 Authorisation for transfers may be revoked at any point in time, at the discretion of the Client, effective on the credits that accrue after the date of the revocation.

### **31 ASSIGNMENT OF THE CONTRACT**

- 31.1 Under no circumstances the Contractor may transfer the Contract[, in all or in part,] to third parties, without prior formal written authorisation from the Client.
- 31.2 The Client shall be entitled to assign the Contract, notifying it the Contractor in writing.

### **32 CONFLICT OF INTEREST**

- 32.1 No agent or employee of the Contractor may give to the Client, or to its agents or employees, nor may they receive from the Client, or from its agents or employees, with regard to the Contract, commissions, compensation, gifts or free goods of significant value. In the same way, they may not engage in business relations of a private nature with agents or employees of the Client, or of companies that belong to the ERG Group. Should such relations exist, then the Client must be informed of the fact forthwith, in writing.
- 32.2 The Client is entitled to carry out accounting and/or technical inspections at the Contractor's premises, by means of authorised personnel, for the sole purpose of ensuring that the above prohibition is respected.

### **33 SECURITY COSTS**

- 33.1 The costs of the measures taken to eliminate – or, should this not be possible, to reduce to a minimum – risks to health and safety at the workplace on account of interferences between different activities are explicitly indicated under the Special T&Cs.
- 33.2 Security costs were not subject to price reductions and were not the object of negotiation.

### **34 MONITORING AND AUDITING OF INFORMATION SECURITY**

- 34.1 The Contractor undertakes to ensure that the Client has the possibility of carrying out, either directly or through third parties assigned to the task, auditing activities meant to confirm compliance with rules and standards of security, including those regarding information security, further undertaking to apply any corrective actions the Client should identify as necessary; schedule of these activities shall be communicated by the Client a reasonable advance notice.

### **35 PRESENCE OF SECURITY GUARDS**

- 35.1 The Contractor undertakes, for the entire duration of the Services, to guarantee that security guards watch over the working and storage areas day and night.

35.2 The Contractor guarantees that all the areas of the Services shall be protected, along with the materials in storage and whatever else falls under its responsibility, and the Contractor shall be responsible for any instances of theft or damage.

### **36 NON-EU PERSONNEL**

36.1 The Contractor undertakes to employ only personnel with proper residence permits, in full compliance with the relevant laws and regulations currently in force.

36.2 The Contractor guarantees that any non-EU personnel shall possess all valid permits required by law (for example, the residence permit).

36.3 Should any non-EU personnel not possess the necessary permits, the Contractor undertakes to send such workers away from the worksite, without causing any damage or inconvenience to the Client.

36.4 It is understood that the Client shall be entitled to carry out inspections to confirm that the residence permits of non-EU personnel are in order.

### **37 CODE OF ETHICS OF THE ERG GROUP AND MODEL OF ORGANISATION, MANAGEMENT AND CONTROL**

37.1 The Contractor declares that it is aware of the contents of Legislative Decree no. 31 of 8 June 2001 (“Legislative Decree 231”), and of the Model of Organisation and Management referred to under Legislative Decree 231 (the “Model”), as well as the Code of Ethics adopted by the Client (published on the site [www.erg.eu](http://www.erg.eu)), and it undertakes to conduct itself in a manner that complies with the provisions of the above.

37.2 The Contractor declares (also with regard, when relevant, to its legal representatives and/or company management) that it has never been involved in proceedings concerning any crimes contemplated under Legislative Decree 231, and it undertakes to notify the Client forthwith, should any such proceedings be initiated against it (or, when relevant, against its legal representatives and/or company management), providing the necessary information with regard to the same.

37.3 The Contractor further declares that it is aware of the fact that compliance with the provisions of the Model and the Code of Ethics, as well as, in general terms, with the obligations provided for in the present clause, constitutes a key element of the corporate organisation of the Client, in addition to representing one of the underlying premises of the decision of the latter to enter into the present contract.

37.4 Failure by the Contractor to observe any of the provisions and obligations referred to above constitutes a serious breach of the obligations set by the terms of the present Contract, entitling the Client to terminate the Contract, effective immediately, under the provisions and effects of art. 1456 of the Italian Civil Code, and without prejudice to the Client right to compensation for damages.

### **38 DISPUTES RESOLUTION**

38.1 All disputes arising out or in any way connected with from the Contract, or otherwise related to it, shall be resolved exclusively through arbitration, in accordance with the Regulations of the Chamber of Arbitration of Milan, by three arbitrators appointed in accordance with those regulations. The Arbitration Chamber shall adopt its decision by applying Italian law. The site of the arbitration shall be Genoa. The language of the arbitration shall be Italian. On any dispute arising from or relating to the Contract, and which cannot be decided under arbitration, the Courts of Genoa shall have exclusive jurisdiction.