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## **1. OVERVIEW**

1.1. The present document "General terms and conditions for software, Cloud Services and maintenance/assistance services" (henceforth referred to as "**General Terms**") regulated by Romanian legislation, concluded between a company of Enel Group and the Contractor, having as object the acquisition of Software, Cloud Services and maintenance/support services to the Software and Cloud Services.

1.2. The Contract shall not be automatically renewed neither tacitly extended.

## **2. DEFINITIONS**

2.1. The present document uses, inter alia, the following definitions:

- **ENEL GROUP AND ENEL SUBSIDIARIES (henceforth referred to as ENEL GROUP):**

1. In addition to (i) the companies in which Enel S.p.A. holds the majority of the voting rights in the general shareholders' meeting; (ii) the companies in which Enel S.p.A. holds a sufficient proportion of voting rights to be able to exercise a dominant influence in the general shareholders' meeting, the following shall also be considered subsidiaries:
  - a) Italian and foreign companies over which Enel S.p.A. has the right, pursuant to a contract or a clause in the articles of incorporation, to exercise a dominant influence – provided that the applicable law uphold such a contract or clause;
  - b) Italian and foreign companies in which Enel S.p.A. controls enough voting rights to exercise a dominant influence upon the general shareholders' meeting, pursuant to an agreement entered into with other shareholders.
2. The interpretation of paragraph 1 shall take into account all voting rights held by subsidiaries or exercised through trustees or those other entities established or appointed for the purpose; it shall not take into account those voting rights held by third parties.

## **3. LANGUAGE**

3.1. The original version of all contractual documents shall be Romanian language.

3.2. The Contract and any other document related to the Contract are concluded in Romanian language, as a compulsory condition.

3.3. In case of discrepancy between the original version in Romanian language and translations into other languages, the original version in Romanian language shall prevail.

## **4. COMMUNICATIONS**

4.1. Any communication between the parties in connection with the execution of the Contract, must be done in writing - by letter, fax, electronic means, by written confirmation of receipt of the communication.

4.2. Any written document must be registered both when sent and when received.

## **5. ECONOMIC TERMS**

5.1. The Contract price is the whole consideration agreed to cover the cost of the products and services. It includes anything necessary for the Contract to be performed in full and everything that the Contractor shall supply or perform and all necessary costs and charges, with the exception of services and items that have been expressly excluded and taxes applied pursuant to the applicable legislation.

5.2. The prices shall be itemised in the Contract according to the methods that the same Contract sets forth.

5.3. Unless the Contract specifies otherwise, the contractual costs are fixed and shall not be amended during the Contract's term.

## **6. INVOICING AND PAYMENT TERMS**

### **6.1. Invoicing**

6.1.1. Invoices shall be deemed valid and Enel shall accept them only if they contain all information required under the Contract and by applicable regulations, and only if the contractual activities relating to the services have been duly carried out.

6.1.2. Invoices not referring to the specific Contract number shall neither be accepted nor considered for purposes related to the date of their receipt.

6.1.3. Invoices will have attached the appropriate supporting documents, as the case may be. In the case of services, the invoices will be supported by supporting documents (e.g. activity annexes, reports, minutes, correspondence, etc.), that will attest to the effective performance of those services.

6.1.4. Even if the Contract provides the payment of invoices in different currencies, any single invoice must be issued under a single currency.

6.1.5. Enel may return to the Contractor any invoices that:

- are not reporting information or data that are required under the terms of the Contract and/or by the applicable law;
- compute items that have not been acknowledged by Enel;
- are issued in a currency other than that provided in the Contract.

6.1.6. Unless otherwise agreed, all invoices and mandatory attached specifications shall be sent to the address provided in the Contract.

6.1.7. Invoicing may be carried out as follows:

**A. Using Enel's electronic systems (Procurement Portal):**

The Contractor shall issue invoices in accordance with the terms and conditions provided in the Contract and after having obtained from Enel the necessary authorisation to invoice (invoices shall report on the quantities supplied and/or information on the services provided in the amount corresponding to the ones invoiced).

Upon receipt of the authorisation to invoice from Enel and in accordance with contractual provisions, the Contractor shall send the invoices, which have to include all data required by mandatory applicable laws, by using an Electronic system (e.g. EDI) that ensures the authenticity and integrity of the information provided in the invoices.

In compliance with the law on electronic invoicing, the Contractor may send Enel invoices issued in an electronic format. This method guarantees the integrity of the data thereof and unambiguously links the document to its issuer.

**B. Without using electronic systems:**

In the event of electronic systems being not available and/or applicable legislation not allowing electronic submission and electronic invoicing, the Contractor, in compliance with the terms and conditions set forth in the Contract, after having obtained the necessary authorisation to invoice from Enel (invoices shall report the quantities supplied and/or the services provided in the amount corresponding to the one invoiced) shall issue the relevant invoice, and send the original to the invoicing address indicated in the Contract.

**6.2. Payment terms**

6.2.1. Enel shall make all payments via bank transfer, as specified in the Contract.

6.2.2. To this end, the Contractor commits to provide Enel with its complete bank details.

6.2.3. The Contractor shall notify Enel in a timely manner of any change to its fiscal or administrative data (e.g. VAT number, address, company name, etc.) and of any change of ownership/corporate shareholdings.

6.2.4. Failure to notify Enel of such information may result in the suspension of payment of any invoice containing information that is not up to date.

**7. INFORMATION AND DATA REGARDING THE PERFORMANCE OF THE CONTRACT**

7.1. Enel, at the request of the Contractor, shall provide all data necessary for the performance of the Contract.

7.2. In case that data supplied by Enel are not sufficient or are incomplete, the Contractor has the obligation to request the necessary data in a timely manner.

7.3. In the absence of such request, Enel shall not be in any way responsible for the failure to comply with the provisions of the Contract.

**8. TAXES**

8.1. Enel shall withhold all applicable taxes (as applicable in the Contractor's resident country and/or pursuant to any other law applicable to the Contract) from its payments to Contractor for services and supplies.

8.2. The Parties mutually agree, in compliance with procedures set forth by the law, to fulfil their obligations, manage all their administrative processes and to submit all documentation necessary for the correct payment of taxes, including withholdings and other legal obligations that may be applicable to the Contractor.

8.3. Equally, the Parties commit to working together for the purpose of securing tax exemptions or other tax benefits that may be applicable to the Contract.

8.4. In the event of Enel losing its right to a tax advantage because of the lack of diligence or of other causes attributable to the Contractor, Enel shall have the right to deduct the value of the lost tax advantage from the sum it owes the Contractor.

8.5. Should a treaty between the Contractor's country of residence and the country of residence of Enel Group be in force in relation to the avoidance of double taxation, and the Contractor claims the application of the provisions of such a treaty, the Contractor must provide Enel with its certificate of tax residency (or any other declaration/certificate necessary for the application of provisions against double taxation); for purposes of classification of the nature of the income under the treaty against the double taxation, the Contractor shall take into account the interpretation in force in the country in which the Enel Group company is located. This certificate is generally valid for one year, unless the legislation of the country in which the Enel Group company is located provides otherwise. In any case, upon expiration of the validity of the certificate, the Contractor shall submit another valid certificate.

8.6. The Contractor shall pay all taxes, duties and tax-related costs relating to the subject of the Contract, with the exception of those that Enel is required to pay by law.

8.7. In the event that Enel is required to make withholdings on payments owed to the Contractor, upon the latter's request, Enel shall draw up a prospectus of the withholdings that demonstrates the sums paid and the taxes deducted.

8.8. In the case that a Convention for the Avoidance of Double Taxation signed by the country of residence of the Contractor and of the Enel exists, the Contractor shall send a tax residency certificate attesting its tax residency for the purposes of the relevant Tax Treaty as well and any other documentation that may be required for these purposes. Such tax residency certificate (as well as any other documentation that may be needed) shall be delivered along with the first invoice issued and/or as soon as Enel requires it.

8.9. All the taxes, duties and fiscal obligations relating to the subject matter of the Contract shall be paid by the Contractor, except for those that Enel is required to pay by law.

**9. FINANCIAL GUARANTEE**

9.1. The amount of the Good Performance Bond of the Contract is 10% (of the Contract value, excluding VAT).

9.2. The Good Performance Bond shall be established as follows:

• by an instrument of guarantee issued under the conditions of the law by a bank or an insurance company and it shall be considered as an annex of the Contract. The guarantee instrument shall be submitted in original at the headquarters of Enel and it shall include the following, as a compulsory condition:

- the Contracting Parties (Insurer/Bank - the issuer of the policy, Insured-Contractor, Beneficiary-Enel);
- the obligation of the bank or of the insurance company to pay in favour of Enel, any amount up to the limit of the Good Performance Bond, unconditionally/conditioned, accompanied by a statement regarding the failure of the Contractor to fulfil its obligations, any eventual payments to be made within the term specified in the request, with no further formalities from Enel or the Contractor;
- the period of validity of the Good Performance Bond.

9.3. Enel has the obligation to return to the Contractor the Good Performance Bond within no more than following the date of completion by the Contractor of its obligations taken by the Contract, if, until that date, any claims were not raised concerning it.

9.4. Enel has the right to raise claims on the Good Performance Bond, within the limit of the damage caused if the Contractor fails to fulfil its obligations taken in accordance to the Contract. Prior to issuing a claim on the Good Performance Bond, Enel has the obligation to communicate this to the Contractor, specifying the obligations which have not been observed.

## **10. SUBCONTRACTING**

10.1. The Contractor can use subcontractors after the Contract is signed by both Parties, therefore during the performance of the Contract, only with the Enel's approval.

10.2. The Contractor has the obligation to submit at the conclusion of the Contract, all the agreements concluded with subcontractors appointed which must indicate in detail all the activities they shall provide and the value threshold for each type of activity.

10.3. The list of subcontractors, including their identification data and agreements concluded with them, are considered annexes to the Contract.

10.4. The Contractor can change any subcontractor only if it has not fulfilled its part of the Contract. Changing a subcontractor shall not alter the price of the Contract and it shall be effective only if the approval of Enel was obtained in advance.

10.5. If during the performance of the Contract, the Contractor requires employment of subcontractors to fulfil the Contract, it will not have the permission to do so without prior consent of Enel and only up to a limit of 30% of the Contract value. In case it obtains this consent, the Contractor shall submit to Enel, the certified copy of the contract concluded with the subcontractor mentioned, which, thus, becomes an annex to the Contract.

10.6. The Contractor has the obligation to conclude agreements with the subcontractors appointed under the same terms according to which it signed the Contract with Enel.

10.7. The Contractor has the obligation to inform the subcontractors regarding all the documents part of the Contract between the Contractor and Enel that have an influence on the execution of the Contract.

10.8. The Contractor is fully responsible to Enel on the modality the subcontractors fulfil their part of the Contract.

10.9. The Contractor has the obligation to submit to Enel the proof of payment regarding the invoices issued by the subcontractor in connection to the performance of the Contract.

10.10. In case of in public procurement procedures, the clause requirements will not exceed the legal framework provided by art. 185 alin. (4) of Law no. 99/2016, according to which the contracting entity does not have the right to impose the fulfilment of qualification criteria for the potential subcontractor, but its technical and professional capacity is to be considered for their involvement in the Contract to be performed, if relevant documents are submitted in this regards.

## **11. THE CONTRACTOR'S OBLIGATIONS AND LIABILITIES**

11.1. Nothing in the Contract limits or excludes the liability of the Contractor for:

- wilful misconduct or negligence;
- anything related to fines and penalties in a request for compensation made by a Subject damaged as a result of the Contractor's failure to comply with Legislation regarding the protection of personal data applicable to the Contractor in its role as a Data Processor;
- breach of confidentiality obligations;
- breach of intellectual or industrial property.

## **12. WITHDRAWAL**

12.1. The Contractor is not entitled to an earlier withdrawal from the Contract, unless otherwise stated in the Contract, pursuant to the rules set forth therein. Thus, to give an example that is by no mean to be deemed as exhaustive, anything set forth in any of the Contractor's documentation that provides otherwise shall not apply unless Enel explicitly accepts it in writing.

## **13. TERMINATION**

13.1. Enel may terminate the Contract according to the applicable law and/or in all those cases the Contract allows an early termination and/or if there is a cause that hamper, or significantly compromises, the correct performance of the services that are subject of the Contract. To give an example that is by no mean to be deemed as exhaustive, Enel may terminate the Contract in the instance of:

- actions, failures to act, behaviours, instances of the Contractor that might generate a risk to Enel's reputation and reduce Enel's trust or the honourability and integrity of the Contractor and its reliability in relation to the execution of the activities that are subject of the Contract.

13.2. In the instances above, Enel may assign the Contractor a term within which to comply, of no less than 15 days; upon expiration of this term, Enel may terminate the Contract, without prejudicing its right to recover the relative penalties, its right to request compensation for any damages sustained or its right to suspend any payments owed to the Contractor.

#### **14. INTELLECTUAL PROPERTY**

14.1. The Contractor shall warrant to Enel that the use of the Software and services does not infringe any Intellectual Property Rights of any third party. The Contractor will, at its sole expense, defend Enel against any claim and indemnify Enel from and against any damages, settlements, liabilities, costs and expenses (including but not limited to reasonable attorney fees), both judicial and extrajudicial, ("**Claim**") as a result of the use of the Software and services (in the form delivered to Enel by the Contractor) infringing any Intellectual Property Rights of any third party, provided that Enel:

- gives prompt notice of the Claim to the Contractor;
- grants sole control of the defence and settlement of the Claim to the Contractor (except that (i) Enel's prior written approval will be required for any settlement that reasonably can be expected to require an affirmative obligation of or result in any ongoing liability to Enel, and (ii) the Contractor agrees to associate Enel with the defence of the Claim); and
- provides reasonable cooperation to the Contractor and, at the Contractor's request and expense, assistance in the defence or settlement of the Claim.

#### **15. PERSONAL DATA PROTECTION**

##### **15.1. Privacy notice regarding personal data processed by parties for the purposes of the Contract**

15.1.1. For all definitions concerning personal data, reference is made to terms and definitions made in EU Regulation 2016/679 (hereafter GDPR), as well as to the implementing legislation and any other current legislation in force.

15.1.2. Parties are informed that personal data are reciprocally acquired during the assignment of the Contract, and processed for the management and execution of the Contract, or to comply with applicable laws. Personal data will be collected and processed using automated means and / or in paper forms and will be stored for the entire duration of the Contract and after its termination for a period not exceeding the terms envisaged by applicable laws.

15.1.3. In this respect, it should be noted that:

- the Data Controller is the Client Company of the Enel Group<sup>1</sup> in the person of its legal representative pro tempore (hereinafter "Enel");
- The data subject is the natural person participating in the awarding procedure, whose personal data are processed for the purposes of stipulation, management and execution of the Contract (hereafter the Data Subject);
- Personal data processed may be transferred to third parties, i.e. to companies subject to management and coordination or connected with Enel S.p.A., or to other third parties. Third parties may be appointed by the Data Controller as Data Processor;
- Data Subjects are entitled to exercise the rights envisaged in Articles 15-21 of the GDPR (right to access data, request their rectification, portability or cancellation, request the limitation of processing of data concerning him/her or may oppose processing), where applicable, by contacting the Data Controller;
- Data Subject are entitled to lodge a complaint to the to Romania Data Protection Authority (ANSPDCP), with registered office in Bucuresti, B-dul G-ral. Gheorghe Magheru 28-30, Sector 1, cod postal 010336, Romania, Tel. (+40) 318059211 or (+40) 318059212, email: ansdpcp@dataprotection.ro;
- The Data Controller has appointed the Data Protection Officer (DPO) pursuant to Article 37 of the GDPR, whose contact details can be found on the Data Controller's website.

##### **15.2. Appointment of the Contractor as Personal Data Processor**

15.2.1. Upon signing of the Contract, and for its entire duration, the Enel Group Client Company, as Data Controller, appoints the Contractor, who accepts, as Personal Data Processor, pursuant to and for the purposes of Article 28 of the GDPR.

15.2.2. The Contractor undertakes to carry out personal data processing operations in compliance with the obligations imposed by the GDPR and the instructions thereafter issued by Enel, which will monitor thorough compliance with the GDPR obligations and the above-mentioned instructions.

15.2.3. It is agreed that Enel has the unilateral right to terminate the Contract if the Contractor is in default of the obligations pursuant with this paragraph.

##### **15.3. Duties and instructions**

15.3.1. The Contractor, in relation to its declared experience, capacity and reliability, has provided a suitable guarantee of full compliance with the applicable data processing regulations and the GDPR its duties and responsibilities are defined as follows:

- a) It must only process personal data according to Enel instructions, as documented in Annex GDPR 1 specifying type of data processed and the categories of Data Subjects;

<sup>1</sup> Company of the ENEL group that establishes the Contract or the company in the name and on behalf of which this is established.

- b) It will have to appoint Authorized Persons ("Authorized Persons") to carry out its data processing operations in IT or paper files, including simple data visualization;
- c) It must ensure that Authorized Persons comply with GDPR obligations and Enel instructions and maintain integrity and confidentiality of the personal data during the execution of the Contract and do not to communicate them to third parties, unless expressly authorised to do so by Enel and except for the cases expressly envisaged by a EU Member State law; Enel reserves itself the right to request the Contractor to provide the list of Authorized Persons for data processing in order to comply with obligations under the GDPR or other legal requirements or for reasons of national security or public interest;
- d) It must adopt all the security measures as set forth in Article 32 of the GDPR, as well as all other preventive measures dictated by the experience designed in order to avoid personal data processing not allowed or not compliant with the purposes for which the data are processed; it must also ensure effective collaboration in implementing these measures in the notification and communication of any personal data breach and in assessing the data protection impact assessment when requested by Enel;
- e) On express request by Enel, it will have to provide the list of countries and data centres where personal data are processed on behalf of Enel;
- f) It may transfer personal data to a third country or to an international organisation located outside the European Union only in the cases envisaged and under the conditions defined by the GDPR, unless required by law of the European Union or the national law of a EU Member State to which the Contractor is subject. In this case, the Contractor undertakes to inform promptly Enel about this conflicting legal obligation unless forbidden from doing so for relevant reasons of national security or public interest;
- g) Bearing in mind the nature of the processing, the Contractor undertakes to support Enel in deploying its own appropriate technical and organisational measures, to the extent to which this is possible, in order to allow Enel to fulfil its duty to respond data subject's request to exercise their rights;
- h) It must assist Enel in ensuring compliance with the duties set forth in Articles 32 to 36 of the GDPR, in consideration of the nature of the processing and its role as Data Processor;
- i) It must, on Enel's request, erase and/or return all the personal data once the execution of the services relative to the processing have been completed and it should erase also the existing copies, unless the law of the European Union or its member States envisages that personal data have to be stored; proof of accomplished erasure has to be provided to Enel;
- j) When Contractor has appointed a Data Protection Officer pursuant to Article 37 of the GDPR, this must be communicated to Enel competent Data Protection Officer;
- k) It must provide Enel with all the information necessary to demonstrate compliance with the requirements of the GDPR by participating in the review activities, including the inspections, carried out by Enel or by another party appointed by the same;
- l) In case of actual or suspected personal data breaches, It must promptly notify Enel without any unjustified delay;
- m) It must cooperate with Enel by making freely available all necessary information in order to allow Enel compliance with Articles 33 and 34 of the GDPR, including up-to-date and valid certifications;
- n) According to Article 30 of the GDPR, it must keep a data record of the processing activities carried out on behalf of Enel.

15.3.2. It is forbidden to the Contractor to process personal data for purposes other than the execution of the Contract. In particular, where it is not necessary for the execution of the Contract, it is forbidden for the Contractor to make, by way of example but not exhaustive, to massively extract personal data, also through the use of "RPA - Robotic Process Automation" (or "automata"), unless previously authorized by the Contractor.

#### **15.4. Compensation and Liability**

15.4.1. Pursuant to Article 82 of the GDPR, the Contractor will be liable for damages caused by the processing if it has failed to comply with the duties and obligations aforementioned or has acted in a different or contrary way to Enel's instructions.

15.4.2. The Contractor will also be liable in the first place with Enel and its data subjects if any Data Processor appointed by the Contractor to execute data processing pursuant to the Contract fails to fulfil its obligations with the GDPR or the Contractor' instructions

15.4.3. In the event of further damages incurred by Enel as a result of the conduct of the Contractor or one of its Data Processors, Enel reserves the right to request further compensation that will be equal to 300% of the value of the Contract.

15.4.4. Enel or the Contractor are exempt from all liability if they can prove that the damaging event is in not in any way ascribable to them.

#### **15.5. Duration**

15.5.1. The above-mentioned appointment as Data Processor will be automatically revoked to the Contractor upon expiration of the contractual relationship or on its termination for any cause, without prejudice to compliance with all the dispositions of the Article 2.1 above concerning processing still in progress even as regards the fulfilment of contractual requirements.

#### **15.6. Other Data Processors (or Sub Data Processors)**

15.6.1. If, for specific processing activities, the Contractor intends to involve in the execution of the Contract Data Processors outside its own organization, these must be appointed as Sub Data Processors pursuant to Article 28 paragraph 4 of the GDPR (hereinafter indifferently Other Processors or Sub Data Processor). The Sub Data Processors must comply with the same obligations that the Contract carries out on the Data Processor. In particular, in compliance with letters b) and c) of paragraph 15.3 "Duties and instructions", each Sub Data Processor shall in turn appoint any resources used in the processing as "Authorized Persons" for processing personal data.

15.6.2. Upon signing of the Contract the Sub Data Processors are thereby authorized (Annex GDPR 2) to process personal Data.

15.6.3. If the Contractor, for recognizable and reasonable reasons, intends to entrust services to Sub Data Processors other those included in the first list referred to in Annex GDPR 2, it must request prior authorization to Enel for such appointments. Enel has the right to issue a general authorization valid for the entire duration of the Contract for allowing all Sub Data Processor to process its personal

data or can issue specific and individual authorizations, depending upon the nature of the services and the duties defined forth in Article 28 of the GDPR.

15.6.4. The Contractor declares that the Sub Data Processors will process personal data in countries belonging to the European Union or countries that ensure adequate protection of personal data under the GDPR. The Contractor undertakes to provide details, specifying the location (region and town), of its Data Centres where personal data will be processed by Sub Data Processors.

15.6.5. If Sub Data Processors process data in the United States, if subject to US law, the Contractor is obliged to ensure the validity of Privacy Shield certifications or other certifications required by the Adequacy Decisions of US legislation on the part of the European Commission for itself and its Sub Data Processors.

15.6.6. If a Sub Data Processor belong to the Contractor's multinational group which has adopted the binding corporate rules pursuant to Article 47 of the GDPR, these constitute adequate assurances with regard only to that Sub Data Processor.

15.6.7. Should the Sub Data Processors intend to process personal data in countries considered inadequate in relation to the GDPR, the Contractor undertakes to have the Sub-processor sign the standard contract clauses defined by the decision of the European Commission in force at the time when the Contract is established. To this end, Enel confers to the Contractor, as Data Processor established in the European Union, a specific mandate with representation so that it can sign the above-mentioned Standard Contract Clauses.

## **16. CONFIDENTIALITY**

16.1. Any information that the Parties make available (orally, in writing, electronically or by any other method) for the purpose of and/or during the Contract term, as well as documents, information, know-how (irrespective of the method by which they are collected, obtained or processed in relation to the Contract) may be used solely within the scope of performing the Contract and are considered confidential.

16.2. The publication or disclosure without the other Party's express prior written consent is forbidden, except in cases in which the disclosing Party is legally obliged to do so, when it is requested by a public authority or where refusal to do so would be illegal.

16.3. The Parties shall guarantee that no confidential information is divulged during the Contract's performance and for a period of five/three (5/3) years subsequent to its end, except where this is necessary for the Contract's performance or if required by law or requested by a public authority.

16.4. In the event of a confidentiality breach each Party may decide to terminate the Contract in addition to proposing action aimed at obtaining compensation for any damages sustained.

## **17. VENDOR RATING**

17.1.1. Enel has set up a vendor rating system in order to assess and constantly monitor the performances of its Contractors.

17.1.2. The vendor rating may be applied to all the companies that work with Enel.

17.1.3. If Enel decides to assess a Contractor, the assessment could be based on indicators that express the level of quality offered, compliance with the lead times, conformity with the environmental and safety laws in force, the upholding of the principles of social responsibility. These indicators are then combined to produce a Vendor Rating Indicator (so-called VRI).

17.1.4. Enel may assess the Contractor from the procurement phase to the performance phase of the Contract, basing its evaluation on information collected through Enel digital tools.

17.2. In case of unsatisfactory performance, Enel may require to the Contractor to submit recovery plans - with contents and terms to be agreed upon - or take the actions that Enel considers appropriate at its best convenience. In the event of excellent performance, Enel may evaluate incentive actions.

## **18. CODE OF ETHICAL CONDUCT**

### **18.1. General details**

18.1.1. In activities carried on and relationship management, Enel Group is guided by the principles contained in its Code of Ethics, Zero Tolerance Plan against corruption, in the Human Rights Policy and the Organization Model, in line with the guidelines 231/2001, available at <http://www.Enel.com>.

18.1.2. In the course of its own business and in managing its relationships with third parties, the Contractor declares that it shall be governed by equivalent principles, otherwise, Enel reserves the right to terminate the Contract.

18.1.3. The principles of Declaration of Commitment to Health and Safety and of Stop Work Policy can be found at the following address: [www.Eneldistributie.ro](http://www.Eneldistributie.ro).

18.1.4. The Contractor states that it acknowledges the pledges made by Enel in the Code of Ethics and states that it shall strive to comply with the legal obligations regarding the prevention of child labour and the protection of women; equal treatment, the prohibition of discrimination, abuse and harassment; freedom to join a union, the freedom of association and representation, forced labour, environmental safety and protection, health and hygiene conditions and the compliance with the terms and conditions of the laws in force regarding remuneration, contributions, insurances, tax, all with reference to all the workers engaged in any capacity in the execution of the Contract. It is fully understood that the ILO Conventions shall be applicable, or the laws in force in the country where the activities need to be carried out wherever the latter are more restrictive.

18.1.5. In this area, Enel reserves the right to carry out any control and monitoring activity geared around verifying whether the above-mentioned duties have been fulfilled, both on the part of the Contractor and also on that of any of its Subcontractors or other parties that may be appointed by the same for the execution of the Contract, and to terminate the same immediately should proof that the above-mentioned duties have been breached come to light.

18.1.6. Enel complies with the Global Compact and that, in compliance with the tenth principle of the same, it intends to pursue its commitment in the struggle against all forms of corruption. Therefore, Enel prohibits the use of any kind of promise, offer or request for unlawful payment, in cash or other utility, for the purpose of furthering its relationships with its stakeholders, and this prohibition is extended to all its employees. The Contractor states that it acknowledges the commitments undertaken by Enel and undertakes not to make any promises, offers or requests for unlawful payment during the execution of the Contract in the interest of Enel and/or to the benefit of its employees.

18.1.7. In case of breach of one of these duties, Enel reserves the right to terminate the Contract and to request compensation for the damage from the Contractor.

#### **18.2. Conflicts of interest**

18.2.1. During the execution of the Contract, the Contractor undertakes to have exclusive regard for the interests of Enel, ensuring that there are no situations that might lead to the occurrence of any conflict of interest in relation to the activities to be performed.

18.2.2. For the entire duration of the Contract, the Contractor undertakes to behave in a way designed to avoid conflicts of interest from arising. Whenever this should result in a situation that could generate any conflict of interest – subject to the right of Enel to terminate the relationship – the Contractor undertakes to promptly give written notice to Enel and comply with the reasonable instructions of the latter, which will be dictated upon consultation and assessment of the justifiably represented needs of the Contractor.

18.2.3. The Contractor undertakes to provide Enel the statement referred to in Attachment 1 of this document, duly signed at the conclusion date of the Contract.

#### **18.3. Confidentiality declaration and regulations regarding the use of information systems of Enel<sup>2</sup>**

18.3.1. The Contractor undertakes to comply with the obligations provided in Attachment 2 of this document. It also undertakes to provide Enel with the statements listed in attachment, duly signed at the conclusion date of the Contract.

#### **18.4. Company health and safety clause**

18.4.1. At Enel, protecting not only the health and safety but also the psychological and physical integrity of people is not only a legal duty but also a moral responsibility towards its own employees and those of its contractors.

18.4.2. The objective that Enel hopes to fulfil is a "Zero Accident" workplace. In Enel no work can be performed in a way that might compromise safety. This is why, as established in the Stop Work Policy, any risky situation or unsafe behaviours must cause the works to be suspended and safe conditions restored.

18.4.3. Enel strives constantly and diligently to consolidate the culture of health and safety, by promoting a closer focus on and awareness of the risks and by encouraging those who work for us and with us to behave responsibly.

18.4.4. The Statement of Commitment to the Health and Safety Policy "Stop Work" can be viewed online at the following address: <http://globalprocurement.enel.com/it-IT/documents/documentation/safety/>.

18.4.5. The Contractors, when undertaking their activities as an enterprise, shall conduct its in line with these principles.

#### **18.5. Code of Ethics of the Contractor**

18.5.1. Alternatively, should the Contractor have its own Code of Ethics and its own policies against corruption and on the respect for Human Rights, Enel can acknowledge, at its sole discretion, such documents, as long as according to the Contractor they refer to principles deemed similar to those established in the same documents of Enel.

### **19. GLOBAL PACT**

19.1. The Contractor undertakes to adopt and fully comply with the Principles of the Global Pact, gearing all its activities, performed by its own staff or by subcontractors, to complying with the above-mentioned Principles.

19.2. The Principles of the Global Pact are as follows:

a) HUMAN RIGHTS.

**One:** Businesses must support and respect the protection of internationally proclaimed human rights in their own fields.

**Two:** Businesses must make sure that they are not complicit in human rights abuses.

b) LABOUR.

**Three:** Businesses must uphold the freedom of association and the effective recognition of the right to collective bargaining.

**Four:** Businesses must support the elimination of all forms of forced and compulsory labour.

**Five:** Businesses must support the effective abolition of child labour.

**Six:** Businesses must support the elimination of discrimination in respect of employment and occupation.

c) ENVIRONMENT.

**Seven:** Businesses must implement a precautionary approach to environmental challenges.

**Eight:** Businesses must support initiatives designed to promote greater environmental responsibility.

**Nine:** Businesses must encourage the development and diffusion of environmentally friendly technologies.

d) CORRUPTION.

**Ten:** Businesses must work against corruption in all its forms, including extortion and bribery.

<sup>2</sup> This provision applies to agreements providing access to offices of Enel and/or access and processing of data and information of Enel Group, and the use by the Contractor, of the information systems of Enel.



19.3. The Contractor undertakes to adopt and fully comply with the applicable legislation in force, linked to the aforementioned Principles of the Global Pact, and commits to notifying Enel if any situation arises in which there is a failure to comply with said principles, in addition to its plan to remedy that situation.

19.4. For the full duration of the Contract, the Contractor undertakes to allowing Enel to check its compliance with the requirements set forth under this article, enabling Enel to terminate the Contract in all instances in which the Contractor or its Sub-contractors breach any one of the aforementioned principles, and where the causes are attributable to the Contractor or its Sub-contractors.

## **20. APPLICABLE LAW**

20.1. The Contract shall be construed in accordance with the laws of Romania.

## **21. JURISDICTION**

21.1. Enel and the Contractor shall make every effort to resolve amicably by direct negotiations, any disagreement or dispute which may arise between them within or in connection with the Contract.

21.2. If, after 15 days from the commencement of these negotiations, Enel and the Contractor are unable to settle amicably a Contract dispute, any of the parties can request that the dispute be settled by the competent court in Bucharest/Timişoara/Constanţa (as the case may be) under the conditions of the law, in compliance with pre-court procedures, where appropriate.

## **22. LICENCE TO USE**

22.1. The Contractor shall grant Enel:

- a non-exclusive licence to use the Software Products and related documentation listed in the licence, according to the functions set forth in the Contract; the licence shall cover Enel Group companies (present and future); in case of perpetual licences the right to use the software shall remain valid, within the terms set forth by the Contract, with no time limit, including after the natural end of the Contract;
- the Software Products that are subject of the Contract may be installed and used within all Enel Group companies (present and future) and at the headquarters of or in places of interest to the Enel Group, wherever they may be. It is understood that Enel is responsible to the Contractor for any breaches of the licence terms by any one Enel Group company;
- Enel may, by giving the Contractor advance notice, transfer possession of the licence to use the Software Products that are the subject of the Contract to Enel Group companies, even where a given company leaves the Enel Group, in part or in full. It is understood that said company shall accept the same licence terms for which the Contract provided and that Enel may continue to supply services based on the Software Products to said company at no additional cost;
- Unless otherwise indicated in the Contract, Enel may install and use the Software Products in any place of interest to Enel;
- The Software Products may also be used and installed in "Infrastructure as a service" (IaaS) or "Platform as a service" (PaaS) environments made available to third-party providers that Enel may select;
- Enel may allow its third-party providers to use its licences, exclusively within the limits and intentions connected to activities considered instrumental to Enel Group's business.

## **23. CLOUD SERVICES**

23.1. The Cloud Services that are subject of the Contract may be used by present and future Enel Group companies.

23.2. Enel may grant access and the use of the Cloud Services that are subject of the Contract for the entire period of validity applicable to Enel Group companies; this power may also be used for companies that leave the Enel Group, in part or in full, by giving advance warning to the Contractor.

23.3. In addition, Enel may grant the use of the Cloud Services mentioned in this document to Enel Group companies' third-party providers, exclusively within the limits and intentions connected to activities considered instrumental to Enel Group's business. Any other use thereof is not permitted without prior agreement between the Parties.

23.4. The data processed within the Cloud Services may be stored/saved exclusively within Data Centres that Enel authorises and that are headquartered within the European Union.

23.5. Upon Enel's express authorisation, the data and/or content that Enel enters into the Cloud Services and that are saved on suitable media within the Contractor's systems, may be saved and exchanged exclusively in and/or through centres headquartered within the European Union.

23.6. The Contractor shall not reduce its overall security measures for Cloud Services for the Contract's entire validity period and such measures shall always be compliant and up-to-date with article 32 of the GDPR.

23.7. The Contractor shall not materially reduce the functionality currently in scope of the Contract.

23.8. All logs that the Contractor generates or saves in any way for the purpose of performing the Contract are subject to the following provisions:

- all logs collected for the purpose of fulfilling legal and/or regulatory requirements or to comply with court orders shall be held only for the minimum period required by the respective provisions and shall be made available to Enel upon request;

- the Contractor shall hold any log that is not required to be held to comply with the law but the storage of which is governed by the Contract and/or its attachments only for the period of time specified in the Contract and shall be made available to Enel upon request;

- any log that is not required to be held to comply with the law nor by the Contract and/or its attachments, but that the Contractor deems useful or necessary for carrying out its services may only be held with Enel's authorisation; the Contractor shall only hold such logs for the period of time strictly necessary for the purposes for which it has been collected. The logs shall be made available to Enel upon request.

#### **24. ENEL'S RIGHT TO AUDIT**

24.1. The Contractor shall provide Enel with a copy of its compliance certification relating to its Cloud Services, including its SOC1 type II and SOC2 type II reports.

24.2. If Enel requires such certifications, for any reason, to cover dates for which reports have not yet been produced, the Contractor shall produce a "Bridge letter" guaranteeing the effectiveness of its internal controls for the Cloud Services that are subject of the Contract for the period between the last valid issue of the SOC1 and SOC2 reports and the date for which Enel is requesting the reports.

#### **25. SUSPENSION**

25.1. The Contractor is strictly forbidden from suspending the Service that is subject of the Contract, unless the Contract provides otherwise and unless there are reasons that Enel considers justifiable, of which Enel shall be notified at least 15 working days' in advance.

25.2. In addition to the provisions of the paragraph above, suspension of the Cloud Service shall be permitted only in cases of emergency that present proven and reasonable risks to the Cloud Service's security, including: (i) Enel's use of the Service that is not compliant with the contractual provisions and would interrupt the Cloud Service or compromise the infrastructure used to provide services and (ii) unauthorised third-party access to the Services. In any case, the Contract shall suspend the Cloud Services in a way that keeps any interruption to the Service provided to Enel to a minimum.

25.3. Following suspension, the Contractor shall produce a report detailing the causes of the suspension and describing the remedial action(s) taken to resolve the problem.

#### **26. LABOUR LAW AND OBLIGATIONS**

26.1. For the full duration of the Contract, the Contractor shall:

- employ staff with the appropriate qualifications and certifications for the activities to be carried out, as required by national legislation and by Enel's own procedures;
- provide its Services in full compliance with the Contract, as well as in compliance with the applicable legal, regulatory and technical provisions set forth by the competent authorities and in force at any time during the Contract's term, and with any additional provision that could affect the Contract. The Contractor takes direct responsibility for all these obligations and the related costs;
- use staff who are compliant with the legislation in force, paying them the remuneration due to its own employees and paying all applicable legally-required taxes and insurance, pension and welfare contributions in compliance with collective labour agreements;

26.2. In the event that the Contractor fails to comply with any of the aforementioned obligations, Enel reserves the right to terminate the Contract with immediate effect.



**ATTACHMENT NO. 1 - STATEMENT<sup>3</sup> REGARDING CONFLICT OF INTERESTS**

The undersigned ..... true and lawful attorney of \_\_\_\_\_

\_\_\_\_\_,  
(denomination/name and location/ address)

acting as ..... of the Contract for ..... declare that I do not have as members in the Board of Directors/management or supervisory body and/or shareholders or associates which are my husband/wife or close relatives to the fourth degree or in business relationships trade with people who hold decision-making positions within the contracting authority.

I, the undersigned, declare that the information provided are complete and true in every detail and I understand that Enel has the right to ask, for verification and confirmation of statements, any supporting documents I have.

I understand that if this statement is not consistent with reality I am liable for violation of criminal law regarding false statements.

This declaration is valid for the entire period of contract performance.

Date of filling in .....

(capacity of the signatory party),

\_\_\_\_\_

(authorized signature)

<sup>3</sup> To be issued by the manager of the company/legal representative/ persons from the company's upper management.

**ATTACHMENT NO. 2 - REGARDING THE SAFETY OF USING THE INFORMATION SYSTEMS OF ENEL**

**PART 1**

**CONFIDENTIALITY STATEMENT<sup>1</sup>**

**CONTRACT no.** ..... **as of** .....

**OBJECT:** .....

The undersigned:

(name and surname of the informant)

Individual (check only if the respective Contract is not concluded with a Company)

(to be filled in only if the respective Contract is concluded with a Company)

<input type="checkbox"/> Owner of _____ <small>(Name/Headquarters of the Company)</small>	}	
<input type="checkbox"/> True and lawful attorney	}	

**DECLARES:**

➤ the list of all authorized persons, who in connection with the Contract, have the right to enter the premises of Enel and/or to access data and information on Enel Group is composed of:

1) Mr/Mrs.....

(Name, Surname)

2) Mr/Mrs.....

(Name, Surname)

➤ that each of the above persons signed the specific individual confidentiality clause, attached to this statement;

➤ that the person responsible to keep the list above updated is:

Mr/Mrs \_\_\_\_\_ email \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_

Attached no. \_\_\_ clauses of individual confidentiality

Date \_\_\_\_\_

Informant

Signature and stamp

.....

<sup>1</sup> To be issued by the manager of the company/legal representative/ persons from the company's upper management.



PART 2

INDIVIDUAL CONFIDENTIALITY STATEMENT<sup>1</sup>

CONTRACT no. .... AS OF .....

OBJECT: .....

The undersigned .....

Born in ..... ( ..... ), on .....

<input type="checkbox"/> employee	} (To be filled in only if the respective Contract is concluded with a Company)
of Company .....	
<input type="checkbox"/> consultant	

Regarding the related Contract, he/she undertakes:

- not disseminate or disclose to third parties the information collected, opinions, studies, and other elements that could be provided by ENEL to perform the related Contract and use this information only for the purposes of the Contract, except where the undersigned must comply with legal obligations or requirements of public authorities to which he/she cannot legally refuse to fulfil;
- regularly inspect and comply with the security requirements regarding the data provided in the annex, in case he/she possibly uses the systems made available by Enel and store with maximum care all the documents on paper and/or electronically, obtained or produced during the performance of activities.

The information disclosed by Enel or resulting from public official documents are excluded from the scope of confidentiality obligations.

**The confidentiality obligations are fixed for a period of 5 years from the expiry of the Contract, even in the event of cessation and termination, direct or indirect of the contractual relationship with Enel.**

For acceptance

.....

Signature

Date: .....

<sup>1</sup> To be issued by the persons mentioned in the Confidentiality Statement list, issued by the Company.

**PART 3**

**SECURITY INSTRUCTIONS FOR THE USE OF INFORMATION SYSTEMS OF ENEL**

**All data, information and information systems provided by the Enel Group are the property of the company and their use will be made only with the approval of Enel.**

**Access to data, information and information systems owned by Enel Group and their use should be implemented in accordance with safety regulations below:**

- access will be granted only after signing certain confidentiality clauses, strictly to fulfil the tasks and activities covered by the contract for a limited time. The limited period of time allowed for access will not exceed the contract's validity period.
- access is made by compliance with Enel policies, rules and procedures, regarding information security, legal framework in force and the right to privacy of other colleagues;
- access is made by ensuring the principles of integrity, availability and confidentiality of data, information and information systems;
- the access key to Enel information systems must be used exclusively used by the staff and only for the fulfilment of work tasks. The password must be kept confidential and changed at least every 60 days or whenever there is a suspicion of being compromised. If using other authentication mechanisms, they must be used and held in maximum security.
- the users of access rights are responsible for the use method of the information resources and for the actions which may damage the security of information resources;
- the users of access rights, by their actions, must not try to compromise the protection of information systems and must not perform actions affecting the privacy, integrity or availability of any type of information;
- depending on the risk degree, access to data, information and information systems is monitored. Enel reserves the right to review daily, or from time to time, logs containing relevant security events of the information describing the actions of the users of access rights.
- when they provide or discover non-compliance with IT security measures, IT security breaches, possible vulnerabilities, risks or threats to information systems, users are required to report these to the Security Department, who will investigate and act accordingly.
- the level of the right of access to the information system should be limited to the components necessary for carrying out the activities covered by the contract. Even if the granted level of access allows access to other components that are not needed, access must be used in good faith;
- access rights, equipment and information systems should not be used to connect to the Internet or other open networks, other than those that may be provided by Enel;
- equipment not provided by Enel and needed for the performance of contractual activities, may be connected in the Enel network only if access is granted (at least by e-mail). The configuration of these devices must comply with the information security policy and have implemented updated IT security measures to prevent the programs such as virus, Trojan, worms and other malicious or illicit programs that can cause failures to Enel computer service;
- the users of access rights should not handle the data and information in electronic format which contravenes laws, which contain racist, abusive, discriminatory, pornographic, paedophile, racist content, content inciting to the use of prohibited substance, war crimes, crimes against humanity , rape, murder, violence, or pirated software or pirated media files that can harm the Enel Group.

In compliance with the requirements above, Enel reserves the right to prohibit the improper use of its IT infrastructure, without prejudice the compliance with the provisions of legislation in force. Nevertheless, Enel also reserves the right to notify the competent judicial authorities on any possible infringement of regulations which might be considered an offense.



**ATTACHMENT GDPR**



**ATTACHMENT 1 GDPR**

**DATA PROCESSING DESCRIPTION**

With reference to article 15 "Personal Data Protection" of Contract Conditions SW&Cloud Romania and to the Contract n. .... and in particular to the appointment of the company ..... as Processor, by this attachment the Controller means to identify types of data and categories of data subjects related to the above mentioned Contract.

**A. Type of personal Data**

- Biographical Data<sup>5</sup>
  - Special Categories of Personal Data<sup>6</sup>
  - Personal Economic & Financial Data
  - Judicial Data
  - Others \_\_\_\_\_
- 
- 
- 

**B. Data Subjects Categories**

- Customers
  - Employees
  - Contractors
  - Others \_\_\_\_\_
- 
- 
- 

Full name of the Processor's legal representative  
 Position  
 Name of the Processor  
 Date  
 Signature

<sup>5</sup> E.g., name, surname, home address, credit card number, Identity Card number, Passport number, IP (Internet Protocol); address, geolocalization data

<sup>6</sup> Including sensitive data, e.g. personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs; trade-union membership; genetic data, biometric data processed solely to identify a human being; health-related data; data concerning a person's sex life or sexual orientation.





ATTACHMENT 2 GDPR

COMPANY	COUNTRY AND ADDRESS	PRODUCT OR SERVICES	TYPE OR CATEGORY OF DATA PROCESSED	DATA ARE PROCESSED within the following EU / non-EU countries	PRIVACY SHIELD OR OTHER RELEVANT CERTIFICATIONS applicable for the data processing within non-EU countries