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## 1. SCOPE

1.1 This document “General Terms and Conditions for software, maintenance and Cloud Services” (hereinafter, “**General Conditions**”) shall regulate the contractual relation between the Enel Group companies and the Contractor in relation to the acquisition of software products, Cloud Services and maintenance/support services for software products and Cloud Services.

1.2 The Contract shall not be subject to automatic renewal or tacit extension.

## 2 DEFINITIONS

2.1 The following definitions, among others, shall apply to this document:

- **Enel GROUP AND COMPANIES UNDER ENEL’S CONTROL** (hereinafter “**Enel Group**”)
  1. In addition to (i) the companies where Enel S.p.A. holds the majority of the votes which can be exercised within the ordinary shareholders’ meeting; (ii) the companies where Enel S.p.A. holds sufficient votes to exercise a dominant influence within the ordinary shareholders’ meeting, also the following entities shall be considered as subsidiaries:
    - a) Italian and foreign companies on which Enel S.p.A. has the right, according to an agreement or a provision of the certificate of incorporation, to exercise a dominant influence, where the applicable laws permit such agreements or provisions;
    - b) Italian or foreign companies in which Enel S.p.A. holds the sole control, according to agreements with the other shareholders, a percentage of votes sufficient to exercise a dominant influence within the ordinary shareholders’ meeting.
  2. For the purposes of paragraph 1, only the rights held by the subsidiary companies or exercised by means of trustees or appointees shall apply, whilst the rights held on behalf of third parties shall not apply.

## 3 ECONOMIC CONDITIONS

3.1 The Contract price represents the entire consideration agreed for the products and the provision of Services and takes into consideration the overall value. This includes all the items required for the full performance of the Contract, and all the goods, services or works that the Contractor should provide or perform, including any ancillary cost or expense, except for the Services and the items expressly excluded and the relevant taxes, as provided for by the applicable law

3.2 All the prices shall be detailed in the Contract in the form specified therein.

3.3 Unless otherwise provided by the Contract, the prices are fixed and may not be modified throughout the term of the Contract.

## 4 INVOICING AND PAYMENT TERMS

### 4.1 Invoicing

4.1.1 In 2020, Enel has joined the new optional fiscal system of “VAT Group” (see article 70-ter of Dpr n. 633 of 1972). This system provides for the establishment of a single and autonomous VAT taxable entity with a single “Group VAT number” for all the member companies. The establishment of Enel “VAT Group” will be effective from January 1st, 2021. The list of Enel companies included in the “VAT Group” to which is associated the same single “Group VAT number” is available on the Global Procurement web portal at the following link “<https://globalprocurement.enel.com/documents/enel-vat-group>”. The application of such system implies the non-application of the VAT Split Payment Regime for Italian Enel companies members of the “VAT Group” from January 1st, 2021. In addition to the “Group VAT number”, the same for all Enel member companies, the indication on the invoice of the Enel client company tax code of the becomes mandatory.

4.1.2 The invoices shall only be submitted by Enel’s IT systems (Procurement Portal).

4.1.3 The contractors residing in Italy and non-resident contractors operating in Italy through a permanent business or other types which identify them for VAT purposes, shall submit the invoices by a structured electronic format (xml).

4.1.4 Non-resident contractors, may send invoices only in TIFF/PDF format, using the relevant channel available on the WEB EDI Portal.

4.1.5 The invoices shall be valid and accepted by Enel if they include all the information specified in the Contract and in the applicable regulations, provided that the contractual activities have been properly performed

4.1.6 Any invoice not specifying the relevant Contract number shall not be accepted nor taken into account for the determination of the date of receipt.

4.1.7 Even if the Contract provides that the invoice payment may be made with different currencies, each invoice may be issued in a single currency.

4.1.8 Enel shall return to the Contractor the invoices:

- that do not report any information or data required by the Contract and/or the applicable law;
- containing items not authorized by Enel;
- reporting amounts in a currency other than that specified in the Contract.

4.1.9 Except as otherwise provided by the Contract, all the invoices and, where applicable, the relevant supporting documents, shall be sent to the address specified in the Contract

4.1.10 Notwithstanding the applicable law on public procurement, it is understood that, in case of subcontract, Enel has not declared that it shall directly pay the subcontractor the amount due for the services or works performed, Enel shall suspend the payment to the Contractor, if the Contractor has not submitted, within the time limits set out by law, a copy of the receipted invoices relating to the amounts paid by the Contractor to the subcontractor, specifying the relevant guarantee withholding applied.

4.1.11 Invoicing may be made as follows:

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

Before the issue of any invoice the Contractor shall require the approval for invoicing from the Enel Unit managing the Contract. Such approval shall be granted upon performance by Enel of any applicable statutory or contractual check for the assessment of the compliance of services with the contractual provisions.

The Contractor, in accordance with the terms and conditions laid down in the Contract and after receiving the authorization to invoice by Enel (the invoices shall include data on the quantities supplied and/or the Services provided corresponding to the amounts specified therein) shall issue the relevant invoices.

After receiving the authorization to invoice by Enel and in accordance with the contractual arrangements, the Contractor shall send the invoices with the mandatory data required by the applicable law, using the IT systems (e.g. EDI) which ensure the authenticity and the integrity of the information specified therein.

Pursuant to the regulations on e-invoicing, the Contractor may send to Enel the invoices created in an electronic format. This would ensure the integrity of the data and the unequivocal assignment of the document to the issuer.

Before the issue of any invoice the Contractor shall require the approval for invoicing from the Enel Unit managing the Contract. Such approval shall be granted upon performance by Enel of any applicable statutory or contractual check for the assessment of the compliance of services with the contractual provisions.

**B. Without using IT systems:**

Before the issue of any invoice the Contractor shall require the approval for invoicing from the Enel Unit managing the Contract. Such approval shall be granted upon performance by Enel of any applicable statutory or contractual check for the assessment of the compliance of services with the contractual provisions.

Where the electronic systems are not available and/or electronic submission and electronic invoicing are not permitted by the applicable law, the Contractor, in accordance with the terms and conditions under the Contract, after obtaining the authorizations required to invoice from Enel (the invoices shall include the data relating to the quantities supplied and/or the Services provided corresponding to the amounts specified therein) shall issue the relevant invoices and send the original copies to the invoicing addresses specified in the Contract.

**4.2 Payment terms**

4.2.1 All payments shall be made by Enel by bank transfer, in the manner and within the time limits set out in the Contract.

4.2.2 To this purpose, the Contractor undertakes to notify its full bank details to Enel.

4.2.3 The Contractor shall promptly report to Enel any change to its fiscal and general details (such as: VAT number, address, company name, etc.) or any change of ownership.

4.2.4 Failure to communicate the above information may result in the suspension of payments of the invoices containing outdated data.

**5 TAXES**

5.1 From the amount paid to the Contractors for the performance of the contractual activities, Enel shall withhold the amounts specified by the applicable tax and contribution law (with tax effect) applicable in the country of residence of the Contractor and/or pursuant to any other law regulating the Contract.

5.2 The Parties mutually undertake to perform any obligation, handle any administrative formality and deliver any document required to settle the payment of taxes, including withholdings and other legal obligations applicable to the Contractor, according to the procedures laid down by the applicable law provisions.

5.3 Likewise, the Parties undertake to cooperate in order to be granted exemptions or other tax benefits applicable to the Contract. Where, due to lack of diligence or for any other cause attributable to the Contractor, Enel should lose the opportunity to enjoy any fiscal benefit, Enel may deduct the amount of such benefit from the payment due to the Contractor.

5.4 Where there is an agreement in force to avoid double taxation between the country of residence of the Contractor and the country of residence of Enel, and where the Contractor appeals to the application of any provision thereof, the Contractor shall provide Enel with the relevant certificate of residence (or any other statement/certificate required for the application of the agreements to avoid double taxation) attesting the tax residence of the Contractor for the purposes of the provisions of such agreement; for the purposes of classifying the type of income pursuant the agreement to avoid double taxation, the Contractor shall take into account the interpretation applied in the country where the companies of the Enel Group are located. Normally this certificate is valid for one year, except if the laws of the country where the Enel Group companies have their head office sets out a shorter period. However, upon expiry the validity of each certificate, the Contractor shall submit another valid certificate.

5.5 Any tax, duty and fiscal charges related to the subject of the contract shall be borne by the Contractor, except for those payable by Enel according to law.

5.6 If Enel has to apply withholdings from the amounts payable to the Contractor, and upon Contractor's request, a statement of the deduction, specifying the amounts paid and the amounts withheld, shall be prepared.

**6 SUBCONTRACTING**

6.1 Subcontracting is allowed within the limits set out by the applicable law and/or according to the provisions of the Contract, subject to assessment and authorization by Enel.

## **7 THE CONTRACTOR'S OBLIGATIONS AND RESPONSIBILITIES**

7.1 Nothing in the Contract shall exclude or limit the liability:

- in case of gross negligence or willful misconduct;
- in relation to any fine, or penalty resulting from claims for compensation by the Data Subject, due to a violation by the Contractor of the Regulations on personal data protection applicable to the Contractor in its quality as Data Processor.
- Violation of the confidentiality obligations;
- Violation of industrial and/or intellectual property rights;

## **8 WITHDRAWAL**

8.1 The Contractor may not withdraw from the Contract, unless otherwise provided by the Contract, according to the terms specified therein. Therefore, by way of example and not as a limitation, any divergent provision included in the Contractor's documents, regardless of its nature, including its General Contract Conditions, shall not apply, unless Enel has expressly accepted them in writing.

## **9 TERMINATION**

9.1 Enel may terminate the Contract in the cases provided for by law and/or in all the cases set out in the Contract and/or if there are significant reasons preventing or compromising the proper performance of the contractual obligations. By way of example and not as a limitation, Enel may terminate the Contract:

- in case of actions, omissions, behaviors, situations of the Contractor that may pose a reputational risk to Enel and reduce Enel's confidence in the Contractor's honesty and integrity as well as its reliability in the execution of the activities covered by the Contract.

9.2 In the cases above, Enel may grant to the Contractor a period to remedy of not less than 15 days. After the expiry of such period, Enel may terminate the Contract, without prejudice to its right to collect the relevant penalties, its right to require an indemnification for the damage suffered or its right to suspend any payment due to the Contractor.

## **10 INTELLECTUAL PROPERTY**

10.1 The Contractor shall guarantee to Enel that the use of the Software and of the Services does not violate any third-party intellectual property right. The Contractor, at its own expense, shall defend Enel from any claim directly related to the Contract, whether judicial or extrajudicial, and shall indemnify Enel from and against any damage, liability, cost or expense (including, without limitation, the attorneys' fees reasonably incurred), (hereinafter, "**Claim**") arising from the use of the Software and/or the Services (in the form provided by the Contractor to Enel) which infringe third parties intellectual property rights, provided that Enel:

- promptly notifies the Claim to the Contractor;
- grants the Contractor the exclusive control to defend and make the relevant agreements in relation to the Claim, (notwithstanding that (i) the agreements shall require Enel's written approval if they reasonably imply any imperative obligation or liability for Enel, and (ii) the Contractor shall involve Enel in the defense); and
- provides reasonable support upon Contractor's request, at the Contractor's costs and expenses, in relation to the defense or settlement of the Claim.

## **11 CONFIDENTIALITY**

11.1 Any information made available by the Parties (orally, in writing, electronically or by any other means) for the purposes and/or during the performance of the Contract, as well as any document, information, know-how (regardless of how they were gathered, collected or processed in relation with the Contract) may only be used in connection with the purposes of the Contract and shall be considered as confidential.

11.2 The publication or disclosure without the prior written and explicit consent of the other Party shall not be allowed, except if the receiving Party is legally required to do so, upon request of a Public Authority or where a refusal would be illegal.

11.3 The Parties shall ensure that the confidential information is not disclosed during the performance of the Contract and for five (5) years after its termination or expiration, except where it is necessary for the performance of the Contract or if required by the law or by a Public Authority.

11.4 Any breach of confidentiality shall entitle each of the Parties to terminate the Contract, in addition to take legal actions to obtain a compensation for the damages suffered.

## **12 PERSONAL DATA PROTECTION**

### **12.1 Privacy notice regarding personal data processed by parties for the purposes of this contract**

12.1.1 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.

12.1.2 Parties are informed that personal data 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.

12.1.3 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 Italian Data Protection Authority, with registered office in Piazza Venezia 11 – 00187 ; Rome. Tel. (+39) 06.696771, email: garante@gdpd.it;
- 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.

## 12.2 Appointment of the Contractor as Personal Data Processor

12.2.1 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.

12.2.2 If the Contractor is a Temporary Consortium of Companies (RTI)/Ordinary Consortium or a Stable Consortium, the companies belonging to the Temporary/Ordinary or Stable Consortium and the executing companies are all appointed as Data Processors.

12.2.3 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.

12.2.4 It is agreed that Enel has the unilateral right to terminate the Contract under Article 1456 Italian Civil Code if the Contractor is in default of the obligations pursuant with this paragraph.

## 12.3 Duties and instructions

12.3.1 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 Attachment GDPR 1 specifying type of data processed and the categories of Data Subjects;
- 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 communicate them to third parties, unless expressly authorised to do so by ENEL and except for the cases expressly envisaged by the 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 to ensure the confidentiality and security of the data and minimise the risks that the data in question might be accidentally destroyed or lost or to preclude any processing of data that is not allowed or not compliant with the purposes for which the data are processed; it must also ensure effective collaboration in implementing these measures personal data breaches and in assessing the data protection impact 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 otherly required by law of the European Union or the national law 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 let ENEL to fulfill it's duty to respond data subject's request to exercise their rights;

<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

- 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;
- 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 of becoming aware of the event and 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 paragraph 5 of the GDPR, it must keep a data record of the processing activities carried out on behalf of ENEL, which must be exhibited upon request of ENEL when subject to legal obligations under articles 33 and 34 of the GDPR.

12.3.2 It is forbidden to the Contractor to process personal data for purposes other than the execution of the Contract.

12.3.3 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.

#### 12.4 Compensation and Liability

12.4.1 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.

12.4.2 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's instructions

12.4.3 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 itself the right to claim further punitive compensation equal to no more than three times the amount of the Contract.

12.4.4 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.

#### 12.5 Duration

12.5.1 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.

#### 12.6 Sub Data Processors



12.6.1 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 Sub Data Processors or Sub Data Processor). The Sub Data Processors must comply with the same obligations that this Contract carries out on the Data Processor In particular, in compliance with letters b) and c) of paragraph [•] .2.1 "Duties and instructions", each Other Processor shall in turn appoint any resources used in the processing as "Authorized Persons" for processing personal data;

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

12.6.3 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 Attachment 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.

12.6.4 The Contractor declares that the Sub 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.

12.6.5 If Sub 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 Processors.

12.6.6 If an Sub Data Processors 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 Processors.

12.6.7 If the Sub Processors intend to process personal data in countries considered inadequate in relation to the GDPR, the Contractor undertakes to make the Sub Processors sign the standard contract clauses defined by the decision of the European Commission in force at the time when this 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.

## **12.7 System administrators**

12.7.1 Since Contractor's staff and/or of its Sub Data Processors., should any be authorised, could carry out functions ascribable to the role of "system administrator" as per current legislation, the Contractor undertakes to provide, upon ENEL's request, the list of its and Sub Data Processors staff and employees authorised to act as "system administrators" and of all those people who could potentially intervene on the personal data belonging to ENEL (Data Processor System Administrators).

12.7.2 The Contractor also undertakes to keep a register of the logs of access, disconnection and attempted access of its Data Processor System Administrators) and to save those information for a period of six months, with the commitment to submit them to ENEL within 3 calendar days in the specified format, upon receipt of a request in writing.

## **13 VENDOR RATING**

13.1 Enel has set up a Vendor Rating System in order to assess and constantly monitor the performances of its contractors.

13.2 The Vendor Rating shall be applied to all the companies that work with Enel

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

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

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

## **14 CODE OF ETHICS**

### **14.1 General**

14.1.1 The Enel Group in the conduct of its business and in the management of relationships makes reference to the principles included in its Code of Ethics, in the Zero Tolerance Anti-Corruption Plan, in the Human Rights Policy.

14.1.2 The Contractor in the conduct of its business and in the management of the relationships with third parties makes reference to equivalent principles.

14.1.3 The Contractor represents to acknowledge the commitments undertaken by Enel in the Code of Ethics and to undertake to comply with the legal obligations on: the protection of child and women labor; equal treatment, non-discrimination, abuse and harassment; freedom of association and representation, forced labor, environmental safety and security and hygiene conditions, as well as to comply with the applicable statutory, contribution, insurance, tax terms in relation to workers employed at any title in the

performance of the Contract. It is understood that ILO conventions, or, if more restrictive, the applicable law of the country where the activities are to be carried out, shall apply.

14.1.4 In this context, Enel reserves the right to carry out any control and monitoring activity aimed at verifying the fulfillment of the above mentioned obligations both by the Contractor, its subcontractors and any subject appointed by the Contractors to execute the Contract, as well as the right to terminate the Contract with immediate effect in case of confirmed breach of such obligations.

14.1.5 Enel accedes the Global Compact and, according to the Principle number ten, is committed to prevent any form of corruption. Therefore, Enel prohibits any promise, offer or request for unlawful payments, whether in cash or in other utilities, aimed at obtaining an advantage in the relationships with its stakeholders and this shall apply to all of its employees. The Contractor declares to acknowledge the commitments undertaken by Enel and undertakes to refrain from making promises, offers or requests for unlawful payments during the performance of the Contract in the interest of Enel and/or for the benefit of its employees.

14.1.6 In case of violation of one of these obligations, Enel reserves the right to terminate the Contract and to claim compensation to the Contractor for the damages suffered

#### 14.2 **Contractor's Code of Ethics**

14.2.1 Alternatively, if the Contractor has its own Code of Ethics or anti-bribery and human rights policies, Enel may, at its sole discretion, recognize such documents, provided that, according to the Contractor's statement, they refer to principles similar to those provided for by Enel's documentation.

#### 14.3 **Conflict of interests**

14.3.1 During the performance of the Contract, the Contractor undertakes to act in the exclusive interest of Enel, avoiding any situation

which may create a conflict of interests in relation to the activities to be carried out.

14.3.2 Throughout the term of the Contract, the Contractor undertakes to adopt a suitable conduct in order to avoid potential conflict of interests. If any situation is considered as liable to create a conflict of interests - notwithstanding Enel's right to terminate the Contract- the Contractor undertakes to promptly inform Enel in writing and to follow its reasonable instructions, which shall be given after consultation and assessment of the requirements pointed out by the Contractor.

#### 14.4 **Company health and safety clause**

14.4.1 At Enel, the protection of people's health, safety and physical and mental integrity does not only represent a legal obligation, but a moral responsibility towards its employees and the employees of the contractors.

14.4.2 The aim of Enel is to achieve a "Zero Accident" workplace. In Enel, no work that might compromise safety can be performed. For this reason, as set out in the Stop Work Policy, any risk situation or unsafe behavior shall require the suspension of the works and the restoration of the safety conditions.

14.4.3 Enel is strongly and constantly committed to spread and consolidate the culture of health and safety, promoting a greater attention and awareness about the risks and supporting the adoption of responsible behaviors by people working with us or for us.

14.4.4 The Declaration of commitment for health and safety and the Stop Work policy are available at:

<http://globalprocurement.enel.com/it-IT/documents/documentation/safety/>

14.4.5 The Contractor, in the performance of the corporate activities, shall adopt a conduct compliant with the aforementioned principles.

#### 14.5 **Declaration pursuant to special part "D" "offenses against the individual" <sup>2</sup>**

14.5.1 The Contractor, with reference to the protection of the individual, undertakes to sign the relevant declaration under Attachment 1 of this document .

#### 14.6 **Specific termination clause due to crimes pursuant to Legislative Decree 231/01**

14.6.1 With reference to the obligations laid down in paragraphs above and the principles specified therein and to the anti-bribery obligations undertaken by the Contractor, where it is established, by final judgment, that the Contractor has committed administrative offenses and/or one or more of the crimes referred to in Legislative Decree 231/2001, Enel shall be entitled to terminate the Contract.

#### 14.7 **Integrity Clause**

14.7.1 By entering into this Contract, the Contractor<sup>3</sup> declares:

<sup>2</sup> The declaration is required in the following cases: (1) stipulation of contracts with companies employing personnel coming from non- EU countries; (2) stipulation of contracts with Internet Providers on the supply of digital contents.

<sup>3</sup> The Legal representative of the Company **on his/her own behalf or on behalf of** (a) the owner or the technical director, in case of sole proprietorship; (b) the members and the technical director, in case of general partnerships; (c) the general partners and the technical director, in case of limited partnerships; (d) the directors with power of representation and the technical director and the sole shareholder (natural person), or the majority shareholder in case of companies with less than four members, as regards any other type of company or consortium of the **Company where he/she has elected domicile for the purposes of office** and, where applicable, of the **Parent company**; and (e) the owner and the technical director, in case of sole proprietorship; (f) the members and the technical director, in case of general partnerships; (g) the general partners and the technical director, in case of limited partnerships; (h) the directors with power of representation and the technical director and the sole shareholder (natural person), or the majority shareholder in case of companies with less than four members, as regards any other type of company or consortium of the Parent Company.

- to acknowledge the obligations undertaken by the Enel Group in the Code of Ethics, in the Zero Tolerance Anti-Corruption Plan (ZTC Plan), in the Human Rights Policy, and to follow equivalent principles in the conduct of its business and in the management of the relationships with third parties;
- <sup>4</sup>that he/she is not aware of criminal proceedings against him/her for tax offenses, crimes against the public administration, crimes against property, crimes against personal freedom or public order, environmental crimes;
- <sup>5</sup>that he/she is subject to investigations for criminal facts, issues, conducts related to tax offenses, crimes against the public administration, crimes against property, crimes against personal freedom or public order, environmental crimes;
- to acknowledge and agree that - for the assessment of the professional conduct of the Contractor, according to the second and third point of this paragraph 14.7.1 - Enel may also independently collect additional information, taking into account the required existence of the fiduciary relationship with the Contractor.

14.7.2 The Contractor undertakes to promptly inform Enel and to provide all the relevant documents:

- if he/she becomes aware of any criminal proceeding against him/her, as referred to in the second point of paragraph 14.7.1 above;
- if he/she is subject to criminal investigations, as referred to in the third point of paragraph 14.7.1 above.

14.7.3 Enel reserves the right to review, at its sole discretion, this information, in order to assess the professional conduct of the Contractor.

## 15 GLOBAL COMPACT

15.1 The Contractor undertakes to accede to and fully comply with the principles of the Global Compact, ensuring that all the activities carried out by its personnel, or by the personnel of its subcontractors, are in line with the regulations set forth above. The Principles of the Global Compact include:

### a) HUMAN RIGHTS.

**One:** Businesses should support and respect the protection of internationally proclaimed human rights within the framework of their sphere of influence.

**Two:** Businesses should make sure that they are not, directly or indirectly, complicit in human rights abuses.

### b) WORK

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

**Four:** Businesses should uphold the elimination of all forms of forced and compulsory labor.

**Five:** Businesses should uphold the effective abolition of child labor.

**Six:** Businesses should uphold the elimination of discrimination in respect of employment and occupation.

### c) ENVIRONMENT.

**Seven:** Businesses should support a precautionary approach to environmental challenges.

**Eight:** Businesses should undertake initiatives to promote greater environmental responsibility.

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

### d) ANTI-CORRUPTION.

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

15.2 The Contractor undertakes to comply with all the applicable laws regulating the above mentioned principles, and to inform Enel of any situation which may prevent the compliance with such principles, as well as of the plan to remedy this situation.

15.3 Throughout the term of the Contract, the Contractor undertakes to allow Enel to verify the degree of compliance with the provisions of this article. Enel shall be entitled to terminate the Contract, for causes attributable to the Contractor, whenever Enel becomes reasonably aware that the Contractor or its subcontractors violated one of the above mentioned principles.

## 16 GOVERNING LAW

16.1 The Contract shall be governed in accordance with the Italian laws.

## 17 LICENSE TO USE

17.1 Unless otherwise specified in the Contract, the Contractor shall provide Enel with:

- the non-exclusive and permanent license to use the software products and the relevant documentation specified in the license, according to the purposes established in the Contract; the license shall apply to the (existing and future) companies of the Enel Group; the perpetual licenses shall remain valid, in accordance with the terms set out in the Contract, without time limitation, including after its expiration or termination;
- the contractual software products may be installed and used by all the (existing and future) companies of the Enel Group and in the offices and places of interest of the Enel Group, wherever they are located. It is understood that Enel shall be liable to the Contractor for any violation the terms and conditions of the license to use by the relevant companies of the Enel Group.
- Enel may, giving a written notice to the Contractor, transfer the ownership of the licenses covered by the Contract to companies of the Enel Group, including if one of such companies leaves the Enel Group, in full or in part. It is understood

<sup>4</sup> For him/herself and all the people specified in the previous note.

<sup>5</sup> For him/herself and all the people specified in the previous note.

that such companies shall accept the same license terms as those set out in the Contract and that Enel shall be entitled to continue to provide services based on the software products to such companies without additional costs;

- unless otherwise provided by the Contract, Enel may install and use the software products on any processing system and in any place of interest for Enel;
- the software products may be installed and used on "Infrastructure as a Service" (IaaS) or "Platform as a Service" (PaaS) environments made available by third-party contractors selected by Enel.
- Enel may grant the use of the licenses also to third-party contractors of Enel, only within the limits and for the purposes related to the instrumental activities for the business of the Enel Group.

## **18 CLOUD SERVICES**

18.1 The Cloud Services covered by the Contract may be used by the existing and future companies of the Enel Group.

18.2 Enel may grant the access to and the use of the contractual Cloud Services to the companies of the Enel Group for the entire term of the Contract; this right may also be exercised towards companies leaving the Enel Group, in full or in part, in which case Enel shall inform the Contractor thereof.

18.3 Enel may grant the use of the Cloud Services also to third-party contractors of Enel, only within the limits and for the purposes related to the instrumental activities for the business of the Enel Group. Any other use shall require an agreement between the Parties.

18.4 The data processed within the Cloud Services may only be archived and stored in technological infrastructures (Data Centers) approved by Enel, located in the European Union territory.

18.5 The data and/or the contents included by Enel in the Cloud Services and stored on suitable media in the Contractor's systems, upon explicit approval by Enel, may only be stored and exchanged within and/or through infrastructures located in the European Union territory.

18.6 The Contractor shall not decrease the overall security measures of the Cloud Services throughout the term of the Contract, and such measures shall always be compliant with sect. 32 of GDPR.

18.7 The Contractor shall not substantially reduce the functionalities of the Cloud Services currently included in the scope of the Contract.

18.8 All the logs created or stored under any form by the Contractor for the performance of the Contract shall be subject to the following provisions:

- all the logs collected according to applicable legal requirements and/or regulations and/or decrees shall be stored for the minimum period required by the relevant provisions and made available to Enel upon request;
- any log whose retention is not legally required, but provided for by the Contract and/or its attachments shall be stored by the Contractor for the period specified in the Contract and made available to Enel upon request;
- any log retention not required according to law or to the Contract and/or its attachments, but that the Contractor deems useful or necessary to provide the Services, shall be approved by Enel; these logs shall be stored by the Contractor for the period strictly required for the purposes for which they have been collected. The logs shall be made available to Enel upon request.

## **19 ENEL'S RIGHT OF AUDIT**

19.1 The Contractor shall provide Enel with a copy of the compliance certificates of its Cloud Services, including SOC1 type II and SOC2 type II reports.

19.2 If Enel, for any purpose, requires such certificates when they have not yet been prepared, the Contractor shall issue a "*Bridge letter*" ensuring the effectiveness of the environment of the internal controls, in relation to the contractual Cloud Services, for the period between the last valid issue of SOC1 and SOC2 reports and the date of request of the reports.

## **20 SOSPENSIONE**

20.1 Unless otherwise provided by the Contract, the Contractor may not suspend the contractual Services, except if valid grounds considered as reasonable by Enel exist, which shall be notified to Enel at least 15 working days in advance.

20.2 In addition to the provisions of the previous paragraph, the suspension of the Cloud Services shall only be allowed in emergency situations posing reasonable and proven risks to the security of the Cloud Services, including: (i) the misuse of the Service by Enel which leads to the interruption of the Cloud Services or compromises the infrastructure used to provide the Services, and (ii) the unauthorized access to these Services by third parties. However, the Contractor undertakes to suspend the Cloud Services in order to minimize the interruption of the Services for Enel.

20.3 After suspension, the Contractor shall draft a report detailing the causes of this interruption and specifying the remedial actions implemented to solve the issue.

## **21 THE CONTRACTOR'S LABOR LAW OBLIGATIONS**

21.1 Throughout the term of the Contract, the Contractor shall:

- employ personnel holding suitable qualifications and certifications for the activities to be carried out, according to the national regulations and with Enel's procedures;
- provide its Services in full compliance with the Contract, as well as with the relevant legal, statutory and technical provisions established by the competent authorities and applicable from time to time throughout the performance of the Contract, and with any additional provision applicable to the Contract. The Contractor shall be directly liable for these obligations and the relevant costs;



- employ personnel regularly employed and meeting the requirements set out by the applicable law, paying the remuneration due to its employees as well as all the taxes, the insurance, pension and social security contributions legally required, in accordance with the collective labor agreements.
- 21.2 Failure to comply with the obligations above by the Contractor shall entitle Enel to terminate the Contract with immediate effect.



**ATTACHMENT 1 - Declaration pursuant to special part "D" "offenses against the individual"  
Part 1**

**HUMAN RIGHTS STATEMENT<sup>6</sup> (Natural Person)**

The undersigned..... aware of the fact that a false declaration shall entitle Enel to terminate the Contract and to claim for the compensation of the damages,

**declares:**

that **he/she has been/has not been** (please, delete what does not apply) investigated in the last 5 years within the framework of legal proceedings relating to the following offenses against the individual: reduction or maintenance in slavery, prostitution of children, child pornography, possession of child pornography material, tourist initiatives aimed to the exploitation of child prostitution, trafficking in persons, buying and selling of slaves.

The undersigned undertakes to promptly inform Enel of any change from the information provided with this statement. Furthermore, aware that Enel may request at any time to prove the contents of this statement, undertakes to provide all the relevant documents.

In witness thereof,

Date, ....

Company stamp

Signature of the Legal Representative

<sup>6</sup> The statement shall be provided for all the contracts relating to the following areas: (1) stipulation of contracts with companies employing personnel coming from non- EU countries; (2) stipulation of contracts with Internet Providers on the supply of digital contents.



**ATTACHMENT 1 - Declaration pursuant to special part "D" "offenses against the individual"**

**Part 2**

**HUMAN RIGHTS STATEMENT<sup>7</sup> (Legal Person)**

The Company..... in the person of its legal representative..... aware of the fact that a false declaration shall entitle Enel to terminate the Contract and to claim for the compensation of the damages,

**declares:**

**it has been/it has not been** (please, delete the what does not apply)

investigated in the last 5 years within the framework of legal proceedings relating to the following offenses against the individual: reduction or maintenance in slavery, prostitution of children, child pornography, possession of child pornography material, tourist initiatives aimed to the exploitation of child prostitution, trafficking in persons, buying and selling of slaves.

The undersigned Company undertakes to promptly inform Enel of any change from the information provided with this statement. Furthermore, aware that Enel may request at any time to prove the contents of this statement, undertakes to provide all the relevant documents.

In witness thereof,

Date, .....

Company stamp

Signature of the Legal Representative

<sup>7</sup> The statement shall be provided for all the contracts relating to the following areas: (1) stipulation of contracts with companies employing personnel coming from non- EU countries; (2) stipulation of contracts with Internet Providers on the supply of digital contents.



**GDPR ATTACHMENTS**



GDPR ATTACHMENT 1

DESCRIPTION OF PERSONAL DATA PROCESSING

With reference to art. 12 "Personal data protection" of the Contract Conditions SW&Cloud and in relation to Contract no. \_\_\_\_\_ and in particular to the appointment of the company [\*] as Data Processor, this attachment aims to specify that such processing shall be carried out on the following type of data and categories of data subjects.

**A. Categories of Data**

- Personal identification data<sup>8</sup>
- Special categories of personal data<sup>9</sup>
  
- Judicial data
- Economic and financial data
- Data related to contracts with customers (e.g. POD, PDR)
- Other \_\_\_\_\_

**B. Categories of data subjects**

- Customers
- Employees
- Contractors/Suppliers
- Shareholders
- Other \_\_\_\_\_

<sup>8</sup> e.g. first and last name; home address; e-mail address; ID document number; localization data (e.g. mobile phone localization features); IP (Internet Protocol) address.

<sup>9</sup> they include sensitive data, e.g., medical condition, habits, daily activities, trade union or political party membership or philosophical or religious beliefs, sexual life and orientation, racial or ethnic origin, financial data (such as credit cards or bank accounts), biometric data (fingerprints, retina identification), genetic data.

