

## RWE General Terms and Conditions for Purchase of Goods and Services (Spain) – 09/2023

### 1. Contract

- 1.1 Any RWE group company (**RWE**) may be named in and raise a **written purchase order (order)**. An **order** is an offer by **RWE** to purchase the goods, services and/or deliverables as described in the **order (goods, services, goods/services)** from the contractor named in the **order (Contractor)**. **Orders for goods/services** placed by **RWE** are subject to these conditions (together the General Terms and Conditions (**GTC**) and severally a condition (**condition**)).
- 1.2 The **Contractor** accepts **RWE's** offer by expressly giving **RWE** a notice of acceptance in writing (including returning a signed **order**) (**accept, acceptance**).
- 1.3 On and with effect from **acceptance (start date)**, a contract is made between the **Contractor** and **RWE** which is comprised of and subject to the contents of the **order** and these **GTC (contract)**.
- 1.4 Terms and conditions of the **Contractor** or any deviation from **RWE's GTC** are expressly rejected by **RWE**.
- 1.5 The **order** prevails over any of the **conditions**.

### 2. Interpretation

- 2.1 In these **GTC**:
  - (a) the use of 'including' and similar expressions does not limit the generality of any preceding words.
  - (b) unless the contractual context otherwise requires, a reference to a statute or statutory provision or regulation includes any statute or statutory provision or regulation as enacted, re-enacted or amended either before or during the **contract term**.
  - (c) Writing (**writing**) means a communication by one or by both parties. The written form may be replaced by electronic form. With regard to SAP purchase **orders**, the **Contractor** and **RWE** agree that an SAP purchase **order** signed with an electronic signature or a simple SAP purchase **order** without an electronic signature shall also be recognized as validly agreed. If the **Contractor** and **RWE** expressly agree, a **Contract** may also be concluded with a simple electronic signature.
- 2.2 A reference to applicable law means all law, act, code, statute or regulation in force at any time which relates to this **contract**, the **goods/services**, **RWE's** site and the **delivery place** (including those relating to health and safety, competition, anti-trust, anti-money laundering, anti-corruption/anti-bribery, foreign trade, export control and sanction laws) (**applicable law**).
- 2.3 With respects to rights which either the **Contractor** or **RWE** can unilaterally declare such as a termination notice or a rescission of **contract** as well as the exercise of the **Contractor's** or **RWE's** right to determine the performance under this **contract**, these declarations or notices shall only be made by written notice and in accordance, among others, with section 1124 of the Spanish Civil Code, or section 1294 of the Spanish Civil Code, respectively.

### 3. Non-Exclusivity, Group Benefit

- 3.1 The purchase of **goods/ services** by **RWE** pursuant to this **contract** is on a non-exclusive basis and may be for the benefit of other companies within the **RWE** group of companies (**RWE group**).

### 4. Term

- 4.1 The **contract** begins on the **start date** and ends when all obligations under the **contract** have been fulfilled (**term**).

### 5. Delivery

- 5.1 The **Contractor** is responsible at its sole cost and risk including the cost to insure for all transport, loading, collection, handling, storage, packing, unpacking, reception at site and delivery reasonably necessary for the supply of the **goods/services (deliver, delivery)** and obtains and pays for all import permits or licenses required for any part of the **goods** or the **Contractor's** equipment delivered duty paid, (DDP as defined in the Incoterms 2020).
- 5.2 **Delivery** includes the delivery of all tools and documentation (e.g. user manuals, health and safety data) relevant to the **goods/services** and their use.
- 5.3 The **Contractor delivers goods/services** by the time (**delivery date**), at the place (**delivery place**) and in the quantity as set out in the **order**.
- 5.4 Any signature from **RWE** on any delivery note or other documentation presented in connection with the **delivery** of the **goods/services** is evidence only of what has been received and is not evidence that the correct quantity/quality of **goods** has been **delivered** or that **goods/services delivered** otherwise comply with the requirements of this **contract**.

### 6. Delivery Date

- 6.1 Without prejudice to **RWE's** rights, if the **Contractor** considers that it cannot **deliver** the **goods/services** on the **delivery date**, the **Contractor** must notify **RWE** of the delay as well as the circumstances causing the delay as soon as the **Contractor** can.

### 7. Instalment Delivery

- 7.1 The **Contractor** may not **deliver** the **goods/services** in instalments unless stated in the **order** or unless **RWE** otherwise agrees in **writing** in advance.

### 8. Standards/Quality of Goods/ Services

- 8.1 The **Contractor delivers** good marketable title free from encumbrances on all **goods/services delivered** by the **Contractor**.
- 8.2 The **goods/services** do not infringe **RWE's** intellectual property rights (including copyright) (**IPR**) or that of any third party.
- 8.3 The **Contractor** passes on the benefit of all manufacturers' and any other relevant third party warranties or guarantees to **RWE** in relation to the **goods/services**

### 9. Labelling, Advice Notes and Packaging of Goods

- 9.1 The **Contractor** clearly marks the **goods** with **RWE's** name, address, **order** number and with an advice note (detailing the name or description of the **goods**, transport, per component the item number,

weight, number or volume and point and date of dispatch) and any other information **RWE** notifies to the **Contractor** that **RWE** requires and makes it clear that the **Contractor** is the supplier of them and the date and place of manufacture, where relevant.

- 9.2 The **Contractor** properly labels the **goods** and supply them with all necessary warnings, instructions and other information relevant to their storage and use including, where applicable, any onward transport and/or lifting requirements.
- 9.3 The **Contractor** notifies **RWE** about any hazards to health, safety or the environment with full details of the hazardous content or nature of the **goods/services** and details of correct measures to be taken in the event of exposure or spillage.
- 9.4 The **Contractor** properly packs the **goods**, secures them and transports them in such a manner as to enable them to reach the **delivery place** in good and new condition.
- 9.5 **RWE** does not need to return to the **Contractor** any packaging materials used in the transportation or **delivery** or supply of **goods/services**.
- 9.6 The **Contractor** removes and disposes of any waste in compliance with relevant **applicable law**.

## 10. Title and Risk

- 10.1 Title and risks to **goods** pass to **RWE** upon **delivery** to the **delivery place**. This is without prejudice to simple retention of title in the **Contractor's** favour.
- 10.2 The **Contractor** keeps **goods** insured for their full replacement value until risk passes to **RWE**. Any **goods** damaged or lost in transit is the **Contractor's** responsibility.

## 11. Price, Invoicing and Payment

- 11.1 In consideration of the successful **delivery** of the **goods/services** **RWE** pays the price in the fixed price amounts, at the rate and/or at the frequency set out in the **order (fee)**.
- 11.2 The **fee** is exclusive of value added tax (**VAT**) but is inclusive of all other matters including freight, insurance and other **delivery** costs and out-of-pocket expenses including subsistence, accommodation, supply of equipment or tools, payment of the **Contractor's** staff (including salaries, wages, bonuses and other emoluments, statutory charges and levies, pension provisions, overtime or payments for working unsociable hours) and compliance with all obligations under this **contract**.
- 11.3 The **Contractor** takes into account all materials and activities required to supply the **goods/services**, all its costs and expenses and all its obligations under this **contract** in setting the **fee**.
- 11.4 The **Contractor's** invoices must show date, invoice number, the **Contractor's** full legal name and address and tax ID number as issuer, **RWE's** full legal name and address and tax ID number as recipient, **VAT** breakdown, **order** number, **fees** and the **Contractor** supplies all other information or supporting documentation that **RWE** may reasonably require. The **Contractor's** invoice must meet the requirements of section 6 of the Annex to the Spanish Value Added Tax Regulations (*Real Decreto 1619/2012, de 30 de noviembre, por el que se aprueba el Reglamento por el que se regulan*

*las obligaciones de facturación*). Where hourly wages are charged, the input tax must be deducted from the travel costs (fares, accommodation costs etc.) in accordance with the tax guidelines in force. All receipts must be correct and permanently legible.

- 11.5 The **Contractor** sends its invoices in the format and to the address as required by **RWE** in the **order**.
- 11.6 **RWE** pays invoices within thirty (30) days from date of receipt. If **RWE** disputes an invoice, **RWE** may withhold payment of the disputed amount until resolution.
- 11.7 If payment is not made on undisputed amounts when due, the **Contractor** may charge interest at a yearly and non-compoundable rate of 2%.
- 11.8 Any sum payable under this **contract** for a taxable supply is exclusive of **VAT** payable on it and the recipient of the supply shall pay an amount equal to such **VAT** in addition to any such sum on receipt of a valid **VAT** invoice from a supplying party.
- 11.9 Any payment does not affect any rights or obligations of either the **Contractor** or **RWE** and does not mean **RWE** accepts that the **Contractor** has fully complied with its obligations under this **contract**.

## 12. Change and Variation

- 12.1 In the case of **contracts** for the provision of **services** (e.g. contract for work), **RWE** may request changes to the scope of **delivery** (including the contractually agreed **delivery date**), unless this is exceptionally unreasonable for the **Contractor** in the individual case. The **Contractor** complies with such a request. The effects of such requests, in particular with regard to the additional and reduced costs as well as the **delivery dates**, are to be taken into account appropriately and in principle agreed in **writing** between **RWE** and the **Contractor** prior to the execution of the changes. In cases of imminent delays in **delivery** or in case of imminent danger, **RWE** may demand that the **Contractor** already commences with the execution prior to this **written** agreement. The **Contractor** complies with this request.
- 12.2 Additional agreements, amendments and additions to the **Contract** require a **written** agreement between the parties, which may also take the form of an electronic SAP **order**.

## 13. Default and Remedy

- 13.1 **Contractor** guarantee that **goods/services** will be and remain compliant with this **contract** for a minimum of twenty-four months from **delivery** or any longer period if set out in the **order (guarantee period)**.
- 13.2 Where any **goods/services** are repaired or replaced, the **guarantee period** commences again on **delivery** of any repaired or replaced **goods/services**.
- 13.3 The **Contractor** and **RWE** have full recourse to the statutory warranty rights in addition to **RWE** rights included in **condition 13.1**.
- 13.4 The statutory defects notification period and the warranty period stated in **condition 13.1**, applies if the **Contractor** and **RWE** have not explicitly agreed otherwise, starting with the **delivery** or acceptance of the **goods/services**.

13.5 Where the **Contractor's default** causes **loss** to any third party, then the **Contractor** indemnifies **RWE** from any **loss** incurred by or awarded against **RWE** by such third party and no maximum liability cap applies to this indemnity.

13.6 Where the **Contractor** in respect to the contractual relationship is demonstrably involved in an unlawful restraint of competition prior to this **Contract** and/or acts anticompetitively before or after this **Contract**, the **Contractor** pays, irrespective of any other liability rules, a penalty in the amount of 15% of the **fee**, unless a damage has been accounted for in a different amount. This also applies if the **Contract** has been terminated or already been fulfilled. Other rights of **RWE** including its right to claim for damages and/or interest on damages remain unaffected.

13.7 Unlawful restrictions of competition are in particular anti-competitive negotiations, recommendations or appointments with other bidders (tenderers) / applicants regarding:

- (a) submission or non-submission of bids (tender) including territorial agreements,
- (b) pricing as well as profit arrangements or
- (c) delivery quantities.

Such acts of the **Contractor** itself are equivalent to acts of persons appointed by it or working for it.

## 14 Insurance

14.1 Without prejudice to any rights or obligations under the **contract** or at law, the **Contractor** takes out and maintains insurance in force for the term and for the period of time over which the **Contractor** has continuing liabilities under this **contract** or **applicable law**, with reputable and substantial insurers and of the nature and extent as would reasonably be expected taking into account the nature and extent of the **Contractor's** obligations under this **contract** or **applicable law** and which includes the insurance cover set out in this **condition** below and to be evidenced by certificates of insurance made available to **RWE** within seven (7) days of **RWE's** request:

- (a) employer's liability insurance in the amount of at least €5,000,000 for any one occurrence or the amount required by **applicable law**, whichever is higher;
- (b) public, product and environmental liability insurance including against liability to third parties for any death or personal injury and **loss** of or damage to any physical property including the **goods** in each case arising out of or in connection with the carrying out of the **delivery of goods/services** in the amount of at least €5,000,000 for any one occurrence;
- (c) such other insurances as **applicable law** requires.

14.2 Deductibles applying under any insurance are for the **Contractor's** account where such deductibles relate to **loss** for which the **Contractor** is responsible under the **contract**.

14.3 Where the **Contractor** receives insurance proceeds from the **Contractor's** insurers relating to an insured event under this **contract**, the **Contractor** pays to **RWE** such sums as are claimed from and/or are due and payable to **RWE** from such insurance

proceeds and/or uses them solely to replace/rectify any associated **default**.

## 15 Liability

15.1 The **Contractor** is liable for any breach of duty and the resulting damage unless it proves that it is not responsible for the breach of duty. Furthermore, the **Contractor** is obliged to indemnify **RWE** against all claims for damages by third parties which third parties assert against **RWE** for reasons based on a default in the **Contractor's delivery**, unless the **Contractor** proves to **RWE** that it is not responsible for the event causing the damage. This **condition** also applies if the **Contractor** uses a vicarious agent.

## 16 Termination

16.1 **RWE** may terminate this **contract** at any time in accordance with the statutory provisions by giving to the **Contractor** written notice.

16.2 The **Contract** may be terminated immediately by notice if:

- (a) the **Contractor** or **RWE** is in material breach of any of its obligations under the **contract** and the breach is not capable of remedy; or
- (b) the **Contractor** or **RWE** is in material breach of any of its obligations and fails to remedy the breach (if capable of remedy) within 14 days of a written notice requesting such remedy (a breach is considered capable of remedy if time is not of the essence in performance of the obligation and if the person in **default** can comply with the obligation within the 30 day period given to comply).

16.3 Where **RWE** may terminate the **contract**, **RWE** may instead terminate the **contract** in respect of part only of the **goods/services** and in which case, the **contract** continues in respect of the **delivery** of the remaining **goods/services**.

16.4 Where the **Contractor** is in default because the **Contractor** has demonstrably been involved in unlawful restrictions of competition at **RWE's** expense, then in addition and/or instead of the remedy available to **RWE** under **condition 13 (Default and Remedy)** **RWE** may immediately on written notice either rescind or terminate the **contract**. In the event of rescission, the relevant **applicable law** applies.

## 17 Consequences of Termination

17.1 On any termination or expiry **RWE** pays the **Contractor** the **fees** due and payable pro rata for any **goods/services delivered** (and not cancelled or rejected) and not yet paid for as at the date of expiry or termination.

17.2 Where **RWE** terminates for the **Contractor's default**, **RWE** may recover from the **Contractor**, to the extent not already recovered, the sums set out at **condition 13 (Default and Remedy)** and the **Contractor** will also pay to **RWE** any consequential **loss** incurred by **RWE** as a result of the termination).

17.3 Unless otherwise agreed, the statutory provisions apply.

## 18 Contractor Staff

18.1 There is no **contract** between **RWE** and any of the **Contractor's** employees, directors, officers, agents,

personnel, staff, contractors, sub-contractors or other workers (**staff**).

18.2 The **Contractor** makes appropriate deductions for tax and insurance and other statutory contributions from the remuneration which the **Contractor** pays to its **staff** that it employs.

18.3 The **Contractor** ensures that:

- (a) it supplies its **staff** with all vehicles and necessary safety and other tools and equipment that they need to **deliver** the **goods/services**;
- (b) all vehicles, equipment and other tools that the **Contractor** and its **staff** use to **deliver** the **goods/services** are in a good, legal and serviceable condition;
- (c) its **staff** are suitably qualified, competent, skilled and experienced and are trained and able to **deliver** the **goods/services** and drive the vehicles, handle the **goods** and all tools and equipment needed to **deliver** the **goods/services** safely and in compliance with this **contract**;
- (d) it puts procedures in place to ensure that its **staff** are able to understand and comply with oral and written instructions given by **RWE** including those which relate to health and safety; and
- (e) it puts in place suitable precautions to prevent damage to property or injury to person.

18.4 Prior to any **staff** performing the **services**, the **Contractor**, to the extent lawful, ensures that each member of the **Contractor's staff** satisfies any checks which are appropriate according to good industry practice or which are reasonably notified by **RWE** to the **Contractor**. Such vetting requirements include but are not limited to: checking identities, rights to work, references, qualifications and driving licences. The **Contractor** keeps records of such checks and shows the records to **RWE** if **RWE** asks to see them.

18.5 The **Contractor** provides any information reasonably and lawfully requested by **RWE** in relation to the **Contractor's staff** who **deliver** the **services** within 10 business days of such request being made.

18.6 The **Contractor** ensures that its **staff**:

- (a) comply with **RWE's** local security and safety arrangements; and
- (b) carry out their duties so as to cause minimum disruption to **RWE's** business operations.

18.7 **RWE** may at any time on notice to the **Contractor** remove or request the removal from **RWE's** premises of any individual whom, in **RWE's** reasonable opinion, is not qualified or competent to be present on **RWE's** site or who at any time acts in a way that contravenes **RWE's** safety or security processes or policies, causes or may cause injury to others or damage to property or who poses any other safety or security risk. The **Contractor's** obligations continue and are not reduced or changed if **RWE** removes or requests such removal.

18.8 The **Contractor** indemnifies **RWE** and **RWE group** on a full indemnity basis against any loss, liability, damage, expense, claim, fine, demand, proceeding, charge, fine, penalty, demand or cost (including legal fees)(**loss**) suffered or incurred by **RWE** (and/or **RWE group**) as a result of any failure by the

**Contractor** or its **staff** to comply with the **Contractor's** obligations under this **condition**.

18.9 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 19 RWE Materials Ownership

19.1 All information, specifications, drawings, sketches, models, prototypes, samples, tools, designs, technical information or data or other proprietary information or **IPR** (whether written, oral or otherwise and including personal data) (**RWE materials**) obtained by the **Contractor** or made available to the **Contractor** by **RWE** or on **RWE's** behalf remains **RWE's** property and/or does not become the **Contractor's** property.

19.2 The **Contractor**:

- (a) keeps **RWE materials** separate from the **Contractor's** property and property of others;
- (b) properly stores and protects them and identifies **RWE materials** as **RWE's** property; and
- (c) delivers up **RWE materials** to **RWE** on request.

19.3 Risk in **RWE materials** passes to the **Contractor** as soon as the **Contractor** obtains them or **RWE** makes its **materials** available for the **Contractor's** use.

## 20 Intellectual Property Rights

20.1 All the **Contractor's** intellectual property rights (**IPR**) existing on or prior to the **start date** remain vested in the **Contractor** and all **RWE's IPR** existing on or prior to the **start date** remain vested in **RWE**.

20.2 The **Contractor** hereby grants to **RWE** a perpetual, transferable, irrevocable, non-exclusive, royalty free, worldwide licence to use any of the **Contractor's IPR** which are necessary for **RWE** and **RWE group** to derive the benefit of the **goods/services** and this **contract**.

20.3 The **Contractor** hereby assigns to **RWE** with full title guarantee all **IPR** (including copyright) free from encumbrances in any **goods/services** created or developed by the **Contractor** or by others on the **Contractor's** behalf in relation to this **contract** or otherwise resulting from **delivery** of the **goods/services** (including new or bespoke computer code and including any new versions (e. g. updates, upgrades, releases, patches, bugfixes). This assignment either takes effect on the **start date** or immediately on the coming into existence of any new or developed **IPR** during the **term**.

20.4 The **Contractor** agrees to obtain waivers of all moral and other rights, execute all documents and to do any other things reasonably necessary to perfect these rights.

20.5 Where any software is created or developed for **RWE**, **RWE** owns and the **Contractor** supplies to **RWE** the source code for software created or developed.

20.6 Any rights granted by **RWE** to the **Contractor** or the **Contractor's staff** to use **RWE's IPR** cease on expiry or earlier termination of the **term**.

20.7 The **Contractor** defends and indemnifies **RWE** and **RWE group** from and against any **loss** incurred by and/or awarded against **RWE** and/or **RWE group** in each case as a result of or in connection with:



- (a) a breach by the **Contractor** or the **Contractor's staff** of **RWE's IPR**; and
  - (b) any claim or action that **goods/services** (in whole or part) infringe the **IPR** or any other rights of a third party.
- 20.8 The **Contractor** and **RWE** each notify the other of any alleged or actual third party **IPR** claim as soon as is reasonably practicable upon becoming aware of any such claim.
- 20.9 Neither the **Contractor** nor **RWE** make any admission as to liability or agree to any settlement of or compromise any third party **IPR** claim without the prior written consent of the other which consent shall not be unreasonably withheld, conditioned or delayed.
- 20.10 The **Contractor** may, on written request to **RWE** and at the **Contractor's** cost and expense and on providing adequate financial security to **RWE** for any debt or liability under the indemnity, have the conduct of or settle all negotiations and litigation arising from any third party **IPR** claim and **RWE** shall, at the **Contractor's** request and expense, give the **Contractor** reasonable assistance in connection with those negotiations and litigation.
- 20.11 If any third party **IPR** claim is made or, in the **Contractor's** opinion, is likely to be made against the **Contractor** or **RWE** then without affecting any rights or obligations the **Contractor** will promptly and at its own expense either:
- (a) procure for **RWE** and/or **RWE group** the right to continue using the **goods/services** or **IPR** (or any part of them) in accordance with this **contract**; or
  - (b) modify or replace the infringing **goods/services** (or any part of them) so as to avoid the infringement or alleged infringement and as if they were defective and so as to comply with the **condition 13 (Default and Remedy)**; or
  - (c) pay to **RWE** all sums as set out at **condition 13 (Default and Remedy)** as if the **goods/services** were defective.
- 20.12 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 21 Confidentiality

- 21.1 The **order**, these **GTC**, any **RWE materials** or any other technical or commercial information of a confidential nature (either marked as such or which, by its nature, can reasonably be considered to be confidential) which the **Contractor** receives from **RWE** (or from a person acting on **RWE's** behalf) either expressly or impliedly or otherwise gleaned by the **Contractor** (including any information relating to **RWE's** business or financial or other affairs or those of a member of **RWE group** or **RWE's** or their customers or suppliers and including any personal data or information relating to information systems and/or networks) (**confidential information**) is strictly confidential and the **Contractor** does not use it except as is strictly necessary in the performance of the **Contractor's** obligations under this **contract** or disclose it (in whole or in part) to any other person without **RWE's** prior written consent.
- 21.2 The **Contractor** keeps **RWE materials** and **confidential information** safely and will maintain

and apply appropriate technical and organizational measures, processes and procedures to safeguard against any unauthorized access, loss, destruction, theft, use or disclosure of personal data and all confidential information. The **Contractor** will not retain the confidential information longer than is required for the performance of the **Contractor's** obligations under this **contract** or as otherwise required or permitted by law.

- 21.3 The **Contractor** may disclose confidential information if and to the extent that:
- (a) the **Contractor** considers it is necessary to disclose confidential information to the **Contractor's staff** or group companies for the purpose only of performing the **Contractor's** obligations under this **contract** or professional advisers, auditors and bankers, in each case provided that the **Contractor** places similar conditions of confidentiality on those persons;
  - (b) the **Contractor** is required to do so by law or any securities exchange or regulatory or governmental body to which the **Contractor** is subject wherever situated provided that the **Contractor** gives **RWE** advance notice warning of this as soon as it is reasonably practicable and legally able to do so;
  - (c) it is or comes into the public domain through no fault of the **Contractor**; or
  - (d) it was previously disclosed to the **Contractor** by others without any obligation of confidence.
- 21.4 To the extent permitted by law, the **Contractor** promptly deletes, destroys or returns **materials** and **confidential information** and any data stored on the **Contractor's** infrastructure promptly to **RWE** (and all copies) at **RWE's** request and on request, certifies any such deletion, destruction or return.
- 21.5 The **Contractor** does not make any announcement or publicity statement relating to **RWE**, **RWE group**, the **contract** or any part of it or its subject matter without **RWE's** prior written approval (except as required by **applicable law** or by any legal or regulatory authority in which case the **Contractor** will give **RWE** as much advance warning of this as it is reasonably practicable to do so).
- 21.6 The **Contractor** defends and indemnifies **RWE** and **RWE group** from and against any **loss**, incurred by **RWE** and/or **RWE group** as a result of or in connection with a breach by the **Contractor** or the **Contractor's staff** of this **condition**.
- 21.7 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for the **Contractor's default**.
- 21.8 The obligations in this **condition** apply for a period of three (3) years after as well as during the **term**.

## 22 Data Protection

- 22.1 The **Contractor** is obliged to comply with the statutory provisions on data protection (in particular the General Data Protection Regulation (GDPR) and the Spanish Law on the Protection of Personal Data (*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*)). In case of processing of personal data on behalf of **RWE**, the **Contractor** processes personal data exclusively

within the scope of the agreement reached and according to **RWE's** instructions. A separate agreement is to be made for this purpose in the event of processing by order. The **Contractor** protects the personal data received from **RWE** from access by unauthorized third parties by means of suitable technical and organizational measures in accordance with Art. 32 GDPR and the Spanish Law on the Protection of Personal Data (*Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*). The **Contractor** informs **RWE** without delay in the event of serious disruptions in the course of operations, suspected violations of data protection or other irregularities in the processing of **RWE's** data.

22.2 The **Contractor's** and **RWE's** respective maximum liability and/or debt to each other under this **condition** is the sum of one million Euro (€1,000,000) in aggregate.

22.3 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for the **Contractor's default**.

## 23 Information Security and Critical Infrastructure

23.1 **RWE** may ask the **Contractor** (and the **Contractor** may already have done so) from time to time to complete a self-declaration form, and to provide relevant evidence relating to information security, critical infrastructure protection and data protection. The **Contractor** warrants that its answers are and shall remain true and accurate. Any breach of this warranty or false declaration is a material breach of the **contract** and **RWE** may terminate for **Contractor default**.

23.2 The **Contractor** does not access and does not permit anyone to access **RWE's** computing systems without **RWE's** express written authorization.

23.3 Where authorized by **RWE** in advance and in writing, **RWE** may provide the **Contractor** with access to **RWE's** computing systems.

23.4 Where **RWE** provides such access the **Contractor** employs anti-virus procedures and complies with IT policies and procedures that align with **RWE's** security requirements.

23.5 The **Contractor** may use any access granted to it only to **deliver the goods/services** and any such access must be through **RWE's** agreed security gateways and/or firewalls.

23.6 **RWE** may terminate the **Contractor's** access to **RWE's** systems at any time without notice to the **Contractor**.

23.7 The **Contractor** immediately notifies **RWE** (csirt@rwe.com) of and provides assistance with any suspected, actual or threatened security incidents or security breaches, unusual or malicious activity or events and/or vulnerabilities of which **Contractor** becomes aware that may affect **RWE's** systems in any way or lead to unauthorized access to **RWE's** systems, or impacts the provision of **goods/services** to **RWE**.

23.8 Any breach of this **condition** is a material breach and **RWE** may terminate any **contract** with the **Contractor** for **Contractor default**.

## 24 Disrepute

24.1 The **Contractor** does not use **RWE's** information or do anything that brings **RWE's** name or **RWE group's** name into disrepute or damages or conflicts with **RWE's** or **RWE group's** reputation, goodwill or business interests.

## 25 Marketing and Advertising

25.1 The **Contractor** may not, without **RWE's** prior written consent use:

- (a) any information concerning this **contract**; or
- (b) photographs of **RWE's** sites, facilities or personnel in each case for reference or marketing purposes.

25.2 The **Contractor** may not use **RWE's** trade names, trademarks or logos or those of **RWE group** either individually or in combination with the **Contractor's** trade names or trade names of others.

## 26 Code of Conduct

26.1 **RWE** and **RWE group** are committed to the RWE Code of Conduct (**RWE Code of Conduct**) set out at: <https://www.group.rwe/en/the-group/compliance/code-of-conduct/>.

26.2 **RWE** expects the **Contractor** to accept the Principles of Conduct contained in the **RWE Code of Conduct** as a basis for cooperation between the **Contractor** and **RWE**.

26.3 **RWE** also expects the **Contractor** to commit to support and implement (and that the **Contractor** will procure that its **staff** support and implement) the principles on human rights, labour relations, environmental protection and combating of corruption which are established within the framework of the United Nations Global Compact Initiative ([www.unglobalcompact.org](http://www.unglobalcompact.org)).

## 27 Combating Corruption

27.1 The **Contractor** undertakes not to give or receive, offer or ask for, directly or indirectly, to anyone, any payment or benefit that constitutes undue financial or other advantage of any kind.

27.2 The **Contractor** complies with all **applicable law** relating to anti-bribery and anti-corruption and the **Contractor** ensures that neither the **Contractor** nor the **Contractor's staff** engage in any activity, practice or conduct which constitutes an offence under such **applicable law**.

27.3 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach by the **Contractor** or the **Contractor's staff** of this **condition**.

27.4 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 28 Sanctions

28.1 "Sanctions" means any economic or financial sanctions, import or export control regimes or trade embargoes implemented, administered, or enforced by the European Union (EU), its member states, or the United Nations Security Council.

Sanctions also means any economic or financial sanctions, import or export control regimes or trade embargoes implemented, administered, or

enforced by the United States of America, or the United Kingdom, unless this constitutes a violation of any applicable blocking law, or compliance with such Sanctions constitutes a violation of any applicable blocking law (**sanctions**).

28.2 The **Contractor** warrants that neither the **Contractor** nor any of the **Contractor's** group companies nor, to the best of the **Contractor's** knowledge, any legal representative of the **Contractor** or any of the **Contractor's** Group companies is:

- (a) a person against whom **sanctions** have been imposed;
- (b) owned or controlled by a person against whom **sanctions** have been imposed;
- (c) located in or has been registered in or has its registered office in, a country or territory against which **sanctions** applicable to itself or its Government have been imposed (currently but not limited to: Cuba, Iran, North Korea, Syria, Crimea and the so-called Donetsk and Luhansk People's Republics).

28.3 The **Contractor** complies with all **sanctions** and export control requirements applicable to it and its business activities as far as actions in connection with this **contract** are concerned.

28.4 The **Contractor** does not sell, supply or transfer items received from **RWE** to third parties if this results in the **Contractor** or **RWE** violating any applicable **sanctions** or export control regulations.

28.5 The **Contractor** does not act or omit to act so as to result in **RWE** violating any applicable **sanctions** or export control regulations.

28.6 The **Contractor** immediately informs **RWE** in **writing** if the **Contractor** becomes aware of any event or matter which may result in a violation of applicable **sanctions** or export control regulations by the **Contractor** or by **RWE** relating to the **contract**.

28.7 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach by the **Contractor** or the **Contractor's staff** of this **condition**.

28.8 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 29 Human Rights

29.1 **RWE** explicitly refers to its Human Rights Supplier Contract Appendix which applies within the **RWE Group** and can be consulted under <https://www.rwe.com/en/products-and-services/supplier-portal/general-conditions>. **RWE** expects the **Contractor** to, and the **Contractor** agrees thereto, explicitly accept and comply with the principles and all obligations contained therein at all times and, in particular, to commit itself to support and implement the principles on human rights, labour relations and environmental protection as stipulated therein in its own business area and towards its own supply chain.

29.2 In order to further assess and determine the risk for human rights, labour relations and environmental protection associated with the supply chain, **RWE** may submit, initially and on a frequent or ad hoc basis, and the **Contractor** will reply to in due course,

a questionnaire regarding typical risk areas and preventive and remedial actions having been taken and/or are required within the business area of the **Contractor**.

29.3 The **Contractor** is further obliged to inform **RWE** in due time of any incident, violation of or increased risk to violate any human rights principle affecting **RWE** in its supply chain with the **Contractor**.

29.4 **RWE** is entitled to carry out audits to determine whether the **Contractor** or any sub-supplier has lived up to its obligations under the Human Rights Supplier Contract Appendix by requesting information, documentary evidence or by conducting on-site inspections, as laid out in the Human Rights Supplier Contract Appendix in more detail.

29.5 If the **Contractor** evidently fails to fulfil any of the principles and refuses to implement the necessary preventive or remedial measures according to the Human Rights Supplier Contract Appendix, **RWE** reserves, in addition to other remedies which may be available, the right to extraordinary terminate the **contract** with the **Contractor**.

29.6 In case **RWE** is held legally liable for a violation of applicable legal requirements under the Lieferkettensorgfaltspflichtengesetz (LkSG) which is attributable to wilful or negligent misconduct of the **Contractor**, in particular by not observing the obligations arising under the Human Rights Supplier Contract Appendix, **RWE** will pass on any fine imposed on it as damage claim under this **contract**.

## 30 Responsibilities as an employer

30.1 The **Contractor** complies and procures that its **staff** comply with all **applicable law** relating to labour or employment law, including discrimination, equality, minimum wage, employee health, safety and welfare and the **Contractor** will allow to all the **Contractor's staff** all their rights at law. The **Contractor** indemnifies and holds **RWE** harmless in their internal relationship from all possible claims, which are made against **RWE** because of a noncompliance of the **Contractor** or one of its **subcontractors** against the Spanish Worker's Statute (*Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores*) as well as further legal regulations giving rise to a possible liability. In particular the **Contractor** undertakes to support **RWE** with regard to the defense of alleged claims against **RWE** in the best possible way and to provide **RWE** for example with the necessary information.

30.2 The **Contractor** warrants to **RWE** that all its **staff** performing the **Contractor's** obligations under the **contract** have all necessary rights to work and/or work permits.

30.3 Without prejudice to the general obligations mentioned above or otherwise to comply with **applicable law** including data protection, in relation to the **Contractor's staff**, the **Contractor** warrants that it:

- (a) has effective procedures to verify the age of employees at the time they are recruited;
- (b) keeps adequate age documents of employees, such as ID copies and personnel records;

- (c) complies with local legal requirements in relation to the minimum age of employees;
- (d) employs employees under the age of 18 only on non-hazardous or daytime work;
- (e) allows employees to leave the place of work after working hours;
- (f) treats all employees in a humane manner, including not subjecting a worker to physical or verbal abuse;
- (g) treats all employees in an acceptable manner in relation to their personal documents, including not requiring employees to lodge deposits or original documents such as ID papers and training certificates;
- (h) treats all employees in an appropriate manner over access to and from the place of work; and
- (i) ensures that all employment is voluntary.

30.4 The **Contractor** at all times during the **term** properly enforces such policies and procedures and carries out periodic monitoring of its compliance with such policies and procedures on an annual or more frequent basis.

30.5 In the event that the **Contractor** engages any third party **staff** in relation to any activity connected with this **contract** (including, without limitation, where the **Contractor** sub-contracts to any third party), the **Contractor** ensures that provisions equivalent to this **condition** are included within the **contract** or terms of engagement under which the **Contractor** appoints that third party to carry out the relevant activity connected with this **contract**.

### 31 Code of Conduct and Employer Responsibility Infringements

31.1 If the **Contractor** becomes aware of or has reason to believe that it or any of its **staff** have breached or have potentially breached any of the **Contractor's** responsibilities referred to at **conditions** 23 (*Information Security and Critical Infrastructure*), 26 (*Code of Conduct*), and/or 30 (*Responsibilities as an Employer*) then the **Contractor** notifies **RWE** of the breach or potential breach and takes steps to rectify the breach or potential breach.

31.2 **RWE** uses appropriate means to establish the validity of such breach or potential breach including pursuant to **condition** 34 (*Audit*) and if validated, without prejudice to any rights or obligations under this **contract**, **RWE** may:

- (a) issue the **Contractor** with a warning to provide as soon as reasonably practicable a detailed action plan to address the potential breach or where necessary to remediate the actual breach and which, if appropriate, is implemented immediately; and/or
- (b) suspend this **contract** until the potential breach is addressed or where necessary the actual breach is remedied.

31.3 Where the **Contractor** is given adequate opportunity to address the potential breach or to remedy the actual breach and the **Contractor** has in either case, in **RWE's** opinion failed to do so, the **Contractor** is in material breach of this **contract** and **RWE** may terminate this **contract** for **Contractor default**.

31.4 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach of the

**Contractor's** responsibilities in **condition** 26 (*Code of Conduct*) and 30 (*Responsibilities as an Employer*) or any breach of related **applicable law**.

### 32 Warranty and Representation

32.1 The **Contractor** warrants and represents that:

- (a) it has legal capacity to enter into this **contract** and ability to **deliver** the **goods/services**;
- (b) the entering into and/or fulfilment of this **contract** does not breach or contravene any **applicable law** or contractual requirements or obligations that apply to the **Contractor**.
- (c) it has and will maintain all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the **contract** and in respect of the **goods/services**.

### 33 Records

33.1 The **Contractor** will, during the **term** maintain such records relating to the **goods/services** as may be necessary to trace the supply chain and to demonstrate compliance with its obligations under this **contract**, including correct invoicing, information security, obligations of confidentiality and data protection and keep them for as long as **applicable law** requires).

### 34 Audit

34.1 **RWE** and/or **RWE's** auditors may access the **Contractor's** premises and any premises of the **Contractor's staff** during normal working hours upon giving reasonable notice as appropriate in the circumstances and audit and/or inspect all matters (including all records) at the **Contractor's** premises and/or at those of the **Contractor's staff** relating to the supply of the **goods/services** to **RWE** and the **Contractor's** compliance with its obligations in this **contract** including the **Contractor's** operations, facilities, working conditions, procedures and systems. The **Contractor** provides appropriately qualified **staff** to support such audits.

### 35 Assignment

35.1 The **Contractor** does not assign, novate or otherwise transfer any of the **Contractor's** rights and/or obligations under the **contract** without **RWE's** prior **written** consent.

35.2 **RWE** may assign or sub-license any of **RWE's** rights under this **contract** within **RWE group** without the **Contractor's** prior consent.

35.3 Without prejudice to an assignment of any financial claim under sections 347 and 348 of the Spanish Commercial Code, the **Contractor** does not assign receivables to third parties or have them collected by third parties, unless **RWE** gives its prior **written** consent.

### 36 Subcontracting

36.1 The **Contractor** does not subcontract any of its obligations under the **contract** or change **subcontractors** without **RWE's** prior **written** consent or to the extent set out in an **order**.

36.2 Any appointment of a subcontractor does not affect the **Contractor's** obligations and liabilities.

36.3 The **Contractor** is primarily liable for any act or omission of the **Contractor's staff**.



36.4 Where the **Contractor** subcontracts any of its obligations under this **contract**, the **Contractor** must ensure that terms and conditions the same as these **GTC** are included in the **contract** between the **Contractor** and its subcontractors.

### 37 Language

37.1 The language of this **contract** is English and all notices, documents, correspondence and any other information exchanged between the **Contractor** and **RWE** in relation to it is in English unless agreed otherwise by **RWE** in **writing**.

37.2 The **Contractor** and **RWE** agree that these **GTC** are written in English as a language of convenience only and the English language does not affect the application and/or interpretation of these **GTC** under Spanish law. There is no recourse to English or any other law.

### 38 Escalation

38.1 If a dispute arises out of or in connection with the **contract**, the **Contractor** and **RWE** notify each other and seek to resolve the dispute through negotiations between the **Contractor's** and **RWE's** respective representatives who have the authority to settle it.

### 39 Governing Law and Jurisdiction

39.1 Spanish law applies to this **contract** and the **Contractor** and **RWE** respectively each agree to irrevocably submit to the exclusive jurisdiction of Madrid courts as regards any dispute, claim or matter arising under or relating to this **contract** (including its subject matter, formation and any non-contractual disputes and claims).

39.2 Application of the UN Convention on Contracts for the International Sale of Goods of 1980 (Vienna Sales Convention, Treaty Series 1981, 184 and 1988, 61) is excluded.