

**CONTRACT FOR APPOINTMENT AS DATA PROCESSOR (art. 28 of EU Regulation 2016/679)**

BETWEEN

**VEM Sistemi S.p.A.**, with registered office in 47122 Forlì (FC), Via Don Sebastiano Calderoni 12, registered with the Province of Forlì-Cesena Register of Companies under no./Tax Code/VAT no. 01803850401, share capital Euro 500,000 fully paid-up, hereinafter “VEM”, and/or “Data Controller”, in the person of the Chief Executive Officer Stefano Bossi,

AND

the Supplier/Contractor, hereinafter also referred to as “Processor”;

in their mutual relations for the purposes of this contract, hereinafter also referred to as Parties,

whereas

**(A)** VEM and the Supplier/Contractor have executed an agreement regarding the performance of activities by the Supplier/Contractor which may involve the processing of data controlled by VEM;

**(B)** For this reason, pursuant to art. 28 of EU Regulation 2016/679 (hereinafter, if written with a capital letter, the “Regulation”), the Supplier/Contractor shall be appointed as Data Processor, within the limits of the duties resulting from the performance of the agreement entered into between the parties, this Contract being an integral part thereof;

\*\*\*

In consideration of the foregoing, the Parties agree on the following

**Art. 1. Recitals.**

1. The Recitals form an integral and substantive part of this Contract and the Parties wish to attribute a contractual intent to them.
2. The Parties confirm the truthfulness and binding nature of the facts specified and the statements made in the Recitals under this Contract and under the Agreement referred to in point A of the recitals, including for the purpose of interpretation of this Contract.

**Art. 2. Definitions.**

1. For the purposes of this Annex, the following terms, where written with a capital letter, shall have the following meaning:

**(a)** “Agreement” means the main agreement(s) executed between VEM and the Supplier/Contractor.

**(b)** “Data Controller” and/or “Main Data Controller” means the natural or legal person, Public Authority or other Entity which individually or jointly with other parties determines the personal data processing purposes and methods, in this case VEM.

**(b)** “Processor”, “Data Processor” or “Main Data Processor” means the natural or legal person, Public Authority or other Entity which individually or jointly with other parties processes personal data on behalf of the Controller; for the purposes of this Contract: the Supplier/Contractor.

**(d)** “Sub-Processor”, “Sub-Data Processor” means a body identified by the Processor to assist it in processing the Data Controller’s personal data in compliance with the obligations under this Contract.

**(e)** “Regulation” means REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

**(f)** “Code” means Italian Leg. Decree no. 196 of 30 June 2003, entitled “Personal Data Protection Code, laying down provisions for the transposition into its domestic law of Regulation (EU) No. 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC” as amended by Italian Leg. Decree no. 101 of 10 August 2018.

**(g)** “Standard Contractual Clauses” and/or “SCC” means the standard contractual clauses for the transfer of personal data from an EU Data Controller to a non-EEA Party acting as Data Processor, adopted by European Commission Decision 2010/87/EC as subsequently amended and supplemented.

**(h)** “EEA” means the European Economic Area (consisting of the EU Member States plus Iceland, Liechtenstein and Norway).

### **Art. 3. Appointment as Data Processor.**

1. In its capacity as Data Controller or Main Data Processor for the processing of personal data relating to the subject matter of the Agreement, VEM hereby appoints the Supplier/Contractor as Data Processor for the data it shall process pursuant to the above recitals, in accordance with and for the purposes of art. 28 of the Regulation.
2. By entering into this Contract, the Supplier/Contractor hereby accepts such appointment.

### **Art. 4. Duties as Data Processor.**

1. The Supplier/Contractor undertakes to process the personal data for which it has been appointed as Data Processor, particularly for the duties under letter (A) of the recitals, in compliance with applicable personal data processing regulations which, by entering into this Contract, it states it has knowledge of. In processing the data, the appointed Processor specifically undertakes to:
  - i. adopt the most appropriate measures to comply with the processing methods set forth in art. 5 of the Regulation, in accordance with any instructions given by VEM;
  - ii. provide the data subjects whose data it directly collects with the information referred to in articles 13 and 14 of the Regulation, and where necessary obtain their consent to the processing of the data;
  - iii. assist VEM, including with appropriate technical and organisational measures where possible, in order to comply with its obligation to reply to any requests to exercise the rights under Chapter III of the Regulation, pursuant to art. 28, para. 1, letter e) of the Regulation;
  - iv. adopt the security measures set forth in articles 32 *et sequitur* of the Regulation;
    - a. appropriate pseudonymisation and encryption of the personal data being processed;
    - b. appropriate measures to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services for processing the personal data hereunder;
    - c. appropriate measures to ensure the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
    - d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing of the data being processed hereunder, which the Sub-Processor is also required to maintain.
  - v. identify and train the persons appointed or authorised to process data, and detail the processing operations they are specifically allowed to carry out, committing them to fulfil the same confidentiality and secrecy obligations as the Supplier/Contractor;

- vi. appoint one or more system administrators, providing them with specific instructions and clearly stating the duties assigned to them in a form and manner as may be specified by the Data Protection Authority; if requested, provide the relevant names to VEM;
- vii. ask VEM for its authorisation to appoint Sub-Processors, whenever the Supplier/Contractor intends to use a person for processing the data under this Contract;
- viii. make available to VEM any information needed to prove that the obligations arising from the appointment have been complied with; allow and take part in the auditing activities – including inspections and always with due respect for trade secret – conducted by VEM or by any other party appointed by VEM, and immediately inform VEM if, in its opinion, an instruction that has been received breaches the Regulation or any other data protection provisions;
- ix. keep a Record of processing activities as per art. 30 of the Regulation and make a copy of the record available to the Data Controller and/or Main Data Processor, on request, only with regard to the processing activities covered by this Contract;
- x. notify any breach of Personal Data to the Data Processor pursuant to articles 33 and 34 of EU Regulation 2016/679 (Data Breach) no later than 12 hours after the breach has occurred (or after having learned about it) and assist the Data Controller and the Main Data Processor to ensure they comply, to the extent applicable to each of them, with the Personal Data Breach obligations pursuant to articles 33 and 34 of the EU Regulation 2016/679, particularly with regard to notifying the Data Protection Authority of any breaches and, if applicable, informing the data subjects thereof.
- xi. the Processor undertakes to process the personal data for which it has been appointed in compliance with the personal data protection Instructions.

#### **Art. 5. Authorisation to appoint Sub-Data Processors.**

1. Where the Data Controller, pursuant to art. 4, vii) grants the appointed Data Processor the authority to appoint further data processors, without prejudice to the obligation to communicate them pursuant to art. 28, paragraph 2, second period of the Regulation, the Data Processor shall be required in the relevant contract to impose on the Sub-processor all the obligations imposed on the Supplier according to this Contract. In the event that the Sub-Processor is established outside the EEA, the Supplier shall require that the Sub-Processor complies with the SCC.
2. For the purposes of the preceding paragraph, VEM hereby grants a power of attorney to the Processor to sign the Standard Contractual Clauses in its name and on its behalf for the transfer of personal data to its Sub-Processors established in third countries.

#### **Art. 6. Obligation to exercise supervision**

1. In relation to the obligation to exercise supervision envisaged by art. 28, para. 3, letter (h), of the Regulation, the Data Processor undertakes to fill in and send the questionnaires that VEM may submit to the Data Processor in order to check compliance with applicable personal data processing regulations and with the instructions issued as per the preceding paragraph and personal data protection Instructions.

#### **Art. 7. Termination of processing upon termination of appointment.**

1. Pursuant to art. 28, paragraph 1, letter g of the Regulation, upon revocation or in any event upon termination of this appointment, the Data Processor shall be required to delete or, at VEM's option, return to VEM all the personal data, erase all existing copies and certify that such obligations have been complied with by means of self-declaration.

#### **Art. 8. Supervening regulations or agreements.**

1. In the event that any supervening regulations or changes in the relationships between the Parties, including contractual amendments, make this Contract null/invalid/ineffective or however void it, with the consequent need to make a new appointment, or result in the need to amend and/or supplement this Contract, the Parties hereby undertake to agree in good faith on the new appointment or on the required amendments/supplements so as to bring the powers of the Processor in line with the new rights and duties it will be responsible for as a result of the above regulatory amendments.
2. In this case, the Processor undertakes to agree in good faith on the new appointment also with any sub-processors appointed pursuant to art. 4.
3. If, for performing the Agreement, the Parties have specifically entered into a separate and different document for the Appointment as Data Processor or similar agreement on the processing of personal data, the latter shall prevail over this Contract.

## PERSONAL DATA PROTECTION INSTRUCTIONS

### 1. Data Processor's Obligations

1.1 The Data Processor shall process the personal data for which VEM acts as Data Controller or Main Data Processor in accordance with the provisions of this Annex and shall ensure full compliance with the contents of this document, including the envisaged security and confidentiality measures.

1.2 The Supplier/Contractor warrants that it has appropriate experience, skills and professionalism to ensure full compliance with the applicable provisions on personal data processing, including the implementation of the Regulation, the Code and, in general, any applicable regulations.

1.3 The Data Processor shall act independently and may appoint the persons authorised to process the personal data (hereinafter "authorised persons"), giving them the required instructions and checking that they apply the instructions promptly.

1.4 In accordance with the Regulation, the Code and, in general, applicable regulations, the Data Processor shall be required to:

a. make sure that data are processed in compliance with the rights, fundamental freedoms and dignity of natural persons, with particular reference to confidentiality and personal identity;

b. process personal data in full compliance with the Regulation, the Code and, in general, with applicable regulations, in particular with the provisions on obtaining consent from data subjects (where necessary) to the transfer of personal data to a third country with respect to European Union countries or an international organisation, as well as solely and exclusively for the purposes and according to the operating procedures specified by the Data Controller;

c. delete or return to the Data Controller all personal data after the end of the provision of services relating to processing, and deletes existing copies;

d. carry out the necessary checks to ensure that personal data are: processed lawfully; collected, recorded and processed for the purposes established under the appointment; explicit and legitimate; and used with purposes and methods that are consistent with those for which they were collected;

e. provide the Data Controller with all the information needed to demonstrate compliance with the obligations, and allow and take part in auditing activities, including any inspections that the Data Controller may deem it appropriate to carry out;

f. keep a record of processing activities and make it available to the supervisory authorities;

g. immediately notify the Data Controller of any requests or queries submitted by the data subjects pursuant to articles 15-22 of the Regulation;

h. promptly inform the Data Controller of any material issues pursuant to the Regulation and Italian implementing regulations (e.g., requests from Data Protection Authority, results of inspections by the Authorities, requests from Data Subjects, complaints, breaches, etc.);

i. comply in any case with the Data Controller's instructions.

### 2. Transfer of Agreement - Appointment of another Processor - Sub-contracting

2.1 The Data Processor shall not transfer the Contract for Appointment in whole or in part - nor transfer the rights arising therefrom - without prior written and specific consent of the Main Data Controller.

2.2 The Data Processor may use another Data Processor subject to prior written consent of the Data Controller or Main Data Processor. It is agreed that the Supplier/Contractor shall be responsible for ensuring that if another (EU or non-EU) Data Processor is used to perform specific

processing activities on behalf of the Data Controller, such other Data Processor shall be required to comply with the same data protection obligations set forth in the Agreement, by means of a contract or other legal act according to Union or Member State law. In the event that the sub-Processor (if any) appointed with VEM's authorisation fails to fulfil its data protection obligations, the Supplier/Contractor shall be fully liable for complying with the obligations of the aforementioned sub-Processor.

2.3 The Processor shall not subcontract the performance of the activities referred to in the Contract for Appointment and, more generally, of its obligations under the Agreement, without prior written consent of the Data Controller. Should the Data Controller authorise the Data Processor to subcontract the activities, the Data Processor shall be solely liable towards the Data Controller for ensuring correct compliance of the subcontractors' obligations and for all of their actions or omissions. The Data Processor shall in any case be responsible for any additional charges and costs arising from the subcontracting.

### **3. Appointment as System Administrator**

3.1 The Data Processor shall identify and appoint the persons authorised to act as system administrators. It shall issue relevant instructions and ensure, including by way of periodical checks (at least once a year), that the provisions and instructions it has given have been strictly complied with. The Data Processor shall be responsible for complying with any legal obligations, in relation to occasional and contingent needs or as a result of staff turnover, shifts or replacements.

3.2 Within the scope of the appointment, the Processor shall abide by the following instructions, which are given pursuant to the Data Protection Authority's Order of 27 November 2008 on system administrators:

- directly and specifically keep the personal details of the natural persons appointed as system administrators, for any possible circumstance that may arise;
- check the work of system administrators at least once a year;
- implement systems suitable to record the logical access (digital authentication) to processing systems and electronic records by system administrators. The records (access logs) shall be complete and unalterable, it shall be possible to check their integrity, and they shall be suitable for achieving the verification purpose for which they are required. They shall include timecodes and a description of the event that generated them, and shall be kept for a reasonable period (no less than six months).

### **4. Information Security**

4.1 The Data Processor undertakes to effectively protect all of the Data Controller's information and data, according to the state of the art, from unauthorised access, alteration, destruction or loss, from unauthorised transmission, unauthorised processing and other infringements within the context of a security project enabling wide and comprehensive implementation of suitable technical and organisational measures to ensure a level of security appropriate to the risk, pursuant to art. 32 of the Regulation.

4.2 The Data Processor undertakes to perform internal audits regularly to check that the technical and organisational measures introduced to protect the personal data processed are effective. If necessary, VEM may ask the Processor to send the documentation illustrating the audits carried out.

4.3 The Data Processor may grant authorisation to access the data of the Data Controller or Main Data Processor only to its own authorised persons, in accordance with the concept of authorisation, exclusively to the extent necessary for the assignment and in relation to the scope of the Agreement and the Contract for Appointment as Data Processor.

4.4 In the event that the Data Processor has access to the Data Controller's IT systems, the Data Processor undertakes to access solely the information and data needed to perform the Contract.

4.5 The Data Processor shall ensure that appropriate technical and organisational measures are implemented, before commencing the data processing activities, and shall regularly review and update such measures.

4.6 The Data Processor shall inform VEM in writing about any relevant changes to the existing technical and organisational measures. The Data Processor shall not adopt any measures that have the effect of reducing the protection of data without prior authorisation from the Data Controller or Main Data Processor.

## **5. Data Breach**

5.1 The Data Processor shall immediately inform VEM of any suspected breaches of personal data protection, and in any case within 12 hours after becoming aware thereof, in order to allow the Data Controller to report the incident within 72 hours to the competent supervisory authority.

5.2 The notification shall be sent, including all the information referred to in art. 33 para. 3 of EU Regulation, by e-mail to [dpoprivacy@vem.com](mailto:dpoprivacy@vem.com). The Data Processor shall reply promptly – and in any case within the necessary timescale to comply with the obligations under paragraph 5.1 – to any request for information forwarded by the Data Controller.

5.3 The Data Processor shall implement any measure as instructed by the Data Controller to remedy or prevent personal data protection breaches. The Data Processor shall immediately inform the Data Controller of any regulatory auditing activities that take place in the Data Processor's company or in the IT infrastructure used by the Data Processor, and within which the personal data of the Data Controller or main Data Processor are processed.

## **6. Compliance Questionnaire**

The Data Processor undertakes to fill in and return to the Data Controller any questionnaire submitted by the Data Controller and in any case to submit to the Data Controller, with due respect for trade secret, any document and/or contract or agreement requested from it for the purpose of verifying that the activities effectively ensure the compliance of its processing operations with the EU Regulation.