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|  |
| --- |
| **memorandum of understanding** |

A Memorandum of Understanding is an agreement that defines the framework for the negotiations between the parties in relation to the specific project.

Generally, the MoU express the intentions of the parties and it typically outlines an intended line of common actions to be performed by the parties and regulates questions concerning information exchange, confidentiality and communication.

In the same way as letters of intent, a MoU expresses the good faith intention of the parties to take part in a project without legally obligating the parties to carry out the project. Where a letter of intent typically express the immediate intention of the parties, a MoU typically includes a more detailed outline of the project, the expected contributions by each party and the possible project organisation.

This template should be used taking into consideration that it should be adjusted to the specific project and the parties.

***Important Information***

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This Memorandum of Understanding (MoU) is made on the ¦[date]| between:

¦[Name]**|**

¦[Address]|

¦[City]|

[Country]

[Business Registration No.]

(hereinafter (“Customer”)

and

[Name]

[Address]

[City]

[Country]

[Business Registration No.]

(hereinafter (“[●]”)

and

[Name]

[Address]

[City]

[Country]

[Business Registration No.]

(hereinafter (“[●]”)

and

[Name]

[Address]

[City]

[Country]

[Business Registration No.]

(hereinafter (“[●]”)

([●], [●] and [●] are hereinafter referred to as the “Supplier”)

(Customer, [●], [●] and [●] are hereinafter collectively referred to as the “Parties” and individually as a “Party”)

# Background

## ¦The Parties have agreed to further explore the business opportunity in relation to the project that is further outlined in Exhibit [●] (hereinafter the “Project”). [Include an outline description of the Project, including the key deliverables of the Project and milestones.]

## **[**The Parties have prior to this MoU signed a separate Non-Disclosure Agreement dated [●] (the “NDA”) [and/or] a separate Letter of Intent dated [●] (the “LoI”). This MoU supersedes any prior agreements, whether written or oral, including the NDA [and/or] the LoI, except as otherwise explicitly stated in this MoU.**][[1]](#endnote-1)**

## **[**The Parties have prior to this MoU [include description of other activities such as e.g. participated in site visits / participated in presentation on [dates] /prepared feasibility studies / other]**]**

## This MoU summarises the Parties’ understanding of the intended future collaboration and the obligations of each Party in relation to the Project. The purpose of the MoU is to establish a basis for further discussions between the Parties with a view to enter into binding agreements concerning the Project.

## The MoU does not create any binding obligations, expressed or implied, on the Parties, except as expressly set forth in this MoU.

## **[**The delivery of the Project will require deliveries of equipment and know-how by the Supplier (and possibly other sub-contractors) within areas such as [include description of relevant areas]and the Customer acknowledges that the method for the delivery of the Project will contribute to the delivery of similar solutions to other customers.**]**

# Key terms

## The Parties wish to collaborate in order to be able to sign binding agreements concerning the Project. In order to achieve this, the Parties have agreed to the following steps:

## The [Customer] shall contribute with:

### [Include description of key deliverables and outline relevant tasks]

## The [Supplier] shall contribute with:

### [Include description of key areas of expertise and outline relevant tasks]

## The following task shall be carried out jointly:

### [Include milestones for other activities such as site visits / feasibility studies / meetings or workshops]

## The Parties shall dedicate such time and effort to the Project that is reasonably necessary to ensure that the above steps are achieved.

## The Parties will enter into the following agreements on terms and conditions to be agreed between the Parties: [Include description of relevant agreements to be entered into by the Parties or the key term hereof]

# project organisation and communication

## The Supplier has designated [●] as overall coordinator of the Project (hereinafter the “Supplier Coordinator”) and to represent the Supplier in the continued negotiations with Customer.

## The Customer has designated [●] as the overall coordinator for the Project (hereinafter the “Customer Coordinator”).

## The Customer acknowledges that the Supplier Coordinator is required to keep the Supplier informed of the progress of the Project and the negotiations with the Customer on an ongoing basis (or upon request) and that the Supplier Coordinator shall make available any correspondence or any other documents that have been sent to the Customer or received from the Customer to the Supplier. The Customer also acknowledges that the Supplier Coordinator is not entitled to sign any binding agreements on behalf of the Supplier concerning the Project.

## In addition to the above, each Party shall appoint the below-mentioned key contact persons that together with the Supplier Coordinator and Customer Coordinator will be responsible for the communication between the Parties in relation to the Project within the described key areas. Subject to the understanding that a Party may appoint other key contact persons from time to time, the following key contact persons have been appointed:

* [●]
* [●]
* [●]
* [●]

## **[**An overview of the project organisation is set out in Exhibit [●]**]**[Include description of key areas of expertise and responsibilities]

# Exclusivity

## Until the date of termination of the MoU, the Parties shall not enter into discussions with any third party regarding a possible collaboration in relation to the Project[[2]](#endnote-2).

# Definitive agreements

## [Promptly / As soon as possible] after the execution of the MoU, the Parties shall enter into good faith negotiations with a view to enter into the binding agreements that are mentioned in clause 2.[[3]](#endnote-3)

## [●] shall be responsible for preparing the draft agreement(s). **[**In addition, [●] shall be responsible for drafting any other documents that are deemed to be necessary for the Project.**]**

## Notwithstanding clause 5.2, each Party shall use its best endeavors to prepare and provide in due time all the documents, data and information that are deemed necessary for the Project.

# Confidentiality

## Prior to this MoU, the Parties have signed a separate Non-Disclosure Agreement dated [●] (the “NDA”). The confidentiality obligations that are set out in the NDA shall also apply to this MoU and any Confidential Information (as defined) that are exchanged between the Parties going forward[[4]](#endnote-4).

# Costs and expenses

## Except as set out in any binding agreements, each Party shall bear its own costs and expenses, including, but not limited to, legal and professional fees that are incurred in pursuing or consummating binding agreements in relation to the Project.[[5]](#endnote-5)

## **[**Notwithstanding clause 7.1, the Parties have agreed to reimburse [●] [on a pro rata basis] any [reasonable] fees and expenses to legal and other professional advisors that [●] has incurred as a result of preparing the agreements set out in clause 5.2.**]**

# Termination

## If legally binding agreements have not been entered into on or before [date], this MoU shall automatically cease to be of effect, except for clause 6 (Confidentiality), clause 7 (Costs and Expenses) and clause 10 (Governing law and arbitration) which clauses shall survive such termination.

## Otherwise, the Parties shall in case of such termination have no further obligations or liabilities towards each other.

# Statement of intent only and binding effect

## This MoU is a statement of present intent only and does not create any legally binding commitment or obligations on any of the Parties, except as set forth in clause 4 (Exclusivity), clause 6 (Confidentiality), clause 7 (Costs and Expenses), clause 8.2 (Termination) and clause 11 (Governing law and arbitration).

## The rights and obligations of the Parties in relation to the Project shall be only as set forth in final executed agreement(s).

# Governing LAW AND ARBITRATION

## This MoU and any dispute arising out of or in connection with this MoU, shall be governed by and construed in accordance with the laws of Denmark excluding conflict of law principles.

## Any dispute between or by Parties arising out of or in connection with this MoU shall be finally settled by arbitration in accordance with the rules of the Danish Institute of Arbitration (Danish Arbitration). The arbitration procedure shall take place in [●] and shall be carried out in the [English] language.

## Notwithstanding the foregoing, a Party shall be entitled to initiate legal proceedings concerning injunctions before the ordinary courts with a view to enforcing clause 4 (Exclusivity) and clause 6 (Confidentiality).

## The proceedings and any award shall be kept confidential by the Parties.

# SIGNATURES

## This MoU is signed in [●] original copies, one for each of the Parties.

|  |  |  |
| --- | --- | --- |
| ¦[Place]|, on ¦[Date]|: |  | ¦[Place]|, on ¦[Date]|: |
| For ¦[Customer]|: |  | For ¦[Part2]|: |
|  |  |  |
|  |  |  |
|  |  |  |
| ¦[Name and Title]| |  | ¦[Name and Title]| |

|  |  |  |
| --- | --- | --- |
| ¦[Place]|, on ¦[Date]|: |  | ¦[Place]|, on ¦[Date]|: |
| For ¦[Part3]|: |  | For ¦[Part4]|: |
|  |  |  |
|  |  |  |
|  |  |  |
| ¦[Name and Title]| |  | ¦[Name and Title]| |

# References

1. Amend as necessary. Please also see clause 6.1. [↑](#endnote-ref-1)
2. A separate agreement on exclusivity may also be entered into by the Parties. [↑](#endnote-ref-2)
3. If relevant, further information on specific agreements to be entered into by the parties may be included. The provision may also set put the expected timing for drafts to be provided. [↑](#endnote-ref-3)
4. If the parties have not entered into a separate Non-Disclosure Agreement, separate provisions on “confidentiality” should be included as part of the MoU. Please also see clause 1.2. [↑](#endnote-ref-4)
5. It is stipulated that each party shall bear its own costs. However, the parties may decide to split the costs differently between them to take into account e.g. different contributions. [↑](#endnote-ref-5)