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|  **sub-supply agreement**  |

A sub-supply agreement is an agreement that defines the contractual relationship between the main contractor, who holds the ultimate contract with the client, and the subcontractor, who will perform some or all of the actual project work.

The agreement is in many areas a back-to-back agreement and the subcontractor should as such be very observant of the terms and conditions in relation to the client as the majority of terms of conditions are not specifically described in this agreement.

The terms and conditions in this agreement are specified (for the majority’s sake) only if they differ from the contract with the client, and the parties should be aware of any deviations that may be necessary to include in the agreement.

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 Sub-supply Agreement (hereinafter “Agreement”) is made on the ¦[date]| between

¦[Name]**|**

¦[Address]|

¦[City]|

[Country]

[Business Registration No.]

(hereinafter (“[●]”)

and

[Name]

[Address]

[City]

[Country]

[Business Registration No.]

(hereinafter (“[●]”)

(collectively the “Parties” and individually the “Party”)

WHEREAS

(A) [●] [develops/manufactures/markets] [●];

(B) [●] [develops/manufactures/markets] [●];

(C) [●] and [●] have entered into a [NDA/LoI/MoU/Co-operation agreement(s) on [date] concerning the Project [include description of Project];

(E) [●] wishes to submit a tender offer to the Client for the Project;

(F) [●] wishes to supply [●] with the necessary Project Works with regards to [brief description of the sub-supply scope], and [●] wishes to purchase such Subcontractor Works from [●];

(G) the Parties – as a consequence of the above – wish to enter into this Agreement covering the terms and conditions for [●] delivery of its services as a sub-supplier to [●];

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:

# DEFINITIONS

## ¦As used in this Agreement, the following terms shall have the following meaning:

## “Agreement” means this sub-supply agreement, including exhibits, as may be amended from time to time in accordance with clause 12.1.

## “Client” means [client name, registration no. and address] for whom the Project is to be completed.

## “Main Contractor” means [●].

## “Subcontractor” means [●].

## “Project” means [insert description of project] concerning the delivery of [equipment, materials, work-force and know-how by the Parties (and possibly other sub-contractors) within areas such as [include description of relevant areas] to [●]] as further outlined in Exhibit [●].

## “Project Contract” means the Main Contractor’s contract with the Client concerning the completion of the Project.

## “Project Works” means the works, services, materials, deliveries etc. necessary for the completion of the Project – or part of the Project dependent on the context – in accordance with the tender material and/or the Project Contract.

## “Project Schedule” means the time schedule for the completion of the Project Works.

## “Subcontractor Works” means the works, services, materials, deliveries etc. to be performed by the Subcontractor to the Main Contractor.

## “Subcontractor Sum” means the total sum payable to the Subcontractor in consideration of the Subcontractor’s delivery of the Subcontractor Works.

## "Effective Date" shall mean the last date of signature of both of the Parties.

# sub-contractor works

## The Subcontractor shall perform the works within the area of [description of relevant part of the project].

## The basis for the performance of the Subcontractor works and the terms and conditions for the performance of these works are as follows:

#### This Agreement

#### The Project Contract [description of relevant section(s)]

###### [drawings]

###### [specifications]

###### [etc.]

#### Applicable laws, rules and technical standards within the relevant field(s) for the individual works to be performed.

## [Add specific agreements not included in the abovementioned material, including deviations from the Project, assumptions, conditions etc. not agreed with the Client].

## Unless specifically included in this Agreement all conditions, reservations, assumptions etc. previously made by the Subcontractor shall be deemed to have been withdrawn, including such reservations that may have been included in the Subcontractor’s original offer to the Main Contractor.

# payment

## In consideration of the performance of the Subcontractor Works, the Subcontractor shall be paid the Subcontractor Sum of [amount and currency].

## The Subcontractor shall invoice the Main Contractor in accordance with the principles of the Project Contract, and shall not be entitled to receive payment until 3 banking days after the Main Contractor has or should have received payment from the Client.

### If a delayed or otherwise withheld payment from the Client cannot be attributed to the Subcontractor Works or circumstances for which the Subcontractor bears the risk or responsibility, the Main Contractor is not entitled to withhold payment to the Subcontractor.

# project schedule

## The Subcontractor Works shall be performed in accordance with the Project Schedule in the Project Contract unless otherwise agreed with the Main Contractor.

## The Subcontractor shall prepare a specific work progress schedule for the performance of the Subcontractor Works no later than [●] days after the award of the Project to the Main Contractor.

## In the event that the Subcontractor becomes aware of circumstances which may lead to a delay of the Subcontractor Works or the Project Works, the Subcontractor is obligated to notify the Main Contractor of such circumstances and consequential claims for time extension or payment (if any) immediately.

### Failing to notify the Main Contractor may lead to forfeiture of claims if such failure bars the Main Contractor from receiving additional payment or time extension from the Client.

### Failing to notify the Main Contractor may lead to claims for loss incurred by the Main Contractor if such failure leads to direct loss for the Main Contractor including loss due to any claims from the Client.

# changes to the sub-contractor works

## The Subcontractor has participated in a review of the Project prior to entering into this Agreement and agrees that any changes to the Sub-Contractor Works will not entitle the Sub-Contractor to receive additional payment unless the Main Contractor is similarly entitled to receive payment for such changes from the Client.

### In the event that the Main Contractor is barred from receiving additional payment from the Main Contractor due to circumstances attributable to the contractual relationship between the Main Contractor and the Client, and assuming such circumstances are not similarly applicable to the contractual relationship between the Subcontractor and the Main Contractor, the Subcontractor’s claim for payment shall not be affected by the Main Contractor’s failure to assure payment from the Client.

## In the event that the Subcontractor becomes aware of circumstances which may necessitate changes to the Subcontractor Works or the Project Works, the Subcontractor is obligated to notify the Main Contractor of such circumstances and consequential claims for time extension or payment (if any) immediately.

### Failing to notify the Main Contractor may lead to forfeiture of claims if such failure bars the Main Contractor from receiving additional payment or time extension from the Client.

### Failing to notify the Main Contractor may lead to claims for loss incurred by the Main Contractor if such failure leads to direct loss for the Main Contractor including loss due to any claims from the Client.

# subcontractors

## The Subcontractor is entitled to make use of subcontractors/sub-suppliers unless otherwise stipulated by the Project Contract.

## If the Subcontractor decides to make use of a subcontractor/sub-supplier, the Main Contractor must be notified and the Subcontractor shall be liable for any defects and/or delays caused by its own subcontractor(s)/sub-supplier(s).

# security

## [Description of guarantees, securities etc. to be supplied by the Subcontractor and/or the Main Contractor – note that it will likely not be sufficient with a reference to the Project Contract conditions].

# insurance

## [Description of insurances to be supplied by the Subcontractor and/or the Main Contractor and division of payment for such insurances].

# liability

## The Parties are liable towards each other in accordance with the rules of Danish law.

## Any limitation of liability in the Project Contract as to the type of loss shall be applicable to this Agreement as well.

## Any limitation of liability in the Project Contract as to the maximum amount shall not be applicable to this Agreement.

## [Insert specific liability limitation if any is agreed].

# Confidentiality

## Each Party is only entitled to use confidential information received by the Party from the other Party for the purpose of performing Project Works and each Party shall ensure that such information is not communicated to any third party unless it is necessary for the performance of the Project Works.

## Confidential information includes all information of a technical, commercial nature, including designs, specifications, drawings etc., regardless of the form or format of the information, if the information has been received with a notice of confidentiality or if it is self-evident due to the circumstances that the information is to be treated as confidential.

## The confidentiality shall be upheld regardless of the termination of this Agreement and shall be in force for a period of [●] years after the Agreement expires.

## The confidentiality obligations shall not apply to information that is generally available to the public, obtained in good faith from a third party, independently developed by a Party or required to be disclosed by law.

# Term

## The Agreement shall commence when signed by all Parties.

## The Agreement expires if

#### the Main Contractor fails to attain prequalification,

#### the Main Contractor does not enter into the Project Contract,

#### when the Subcontractor has completed the Subcontractor Works and fulfilled all contractual obligations according to the Agreement.

# amendments to the agreement

## All amendments to the Agreement must be in writing, including changes in the Subcontractor Works, Subcontractor Sum, Time Schedule etc.

# Governing LAW AND ARBITRATION

## This Agreement and any dispute arising out of or in connection with this Agreement 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 Agreement 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.

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

## The Parties are obligated to participate in arbitration and/or litigation before the civil courts if one Party is subpoenaed before such a venue and said Party wishes to seek recourse against one or more of the other Parties.

# SIGNATURES

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

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