

Vertragsmuster für technische Dienstleistungen, Projektentwicklung, Projektsteuerung: Bau- und Ausbau, Anlagenbau, Technologietransfer, Infrastrukturplanung, Entwurfsplanung: Auftraggeber öffentliche oder private Auftraggeber

Verwendbar z.B. in: China, Russland, Vietnam, Arabischer Raum, Nordafrika, Süd-Amerika, Ost-Europa/GUS.

Die Verwendung von Vertragsmustern kann als Arbeitshilfe sinnvoll, als abschließende Lösung einer konkreten Vertragsfrage jedoch höchst gefährlich sein. Eine kompetente fachliche Beratung durch einen in der Praxis erfahrenen Berater ersetzt sie nicht.

Den vollständigen Mustertext können Sie gerne bestellen.

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CONTRACT FOR TECHNOLOGY ADVISORY SERVICES & CONSTRUCTION

MUSTER:

BETWEEN

BEIJING Z. _____ HIGHWAY ENGINEERING TECHNIQUE CO. LTD

BEIJING Z. _____ BRIDGE TECHNICAL CONSULTANTS CO.
LTD

- CHINA -

AND

Berlinmod – Modern Communications Technical Consultants.

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 - 5.4 Services, Facilities and Property of the Client
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 - 6. Payments to the Consultants
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I. FORM OF CONTRACT

COMPLEX TIME-BASED ASSIGNMENTS

- hereinafter called: "The Client" -
- hereinafter called: "The Consultant" -

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:

- Appendix A: Description of the Services
- Appendix B: Reporting Requirements
- Appendix C: Key Personnel and Sub-Consultants
- Appendix D: Medical Certificate /Not used
- Appendix E: Hours of Work for Key Personnel
- Appendix F: Duties of the Client
- Appendix G: Cost Estimates in Foreign Currency
- Appendix H: Cost Estimates in Local Currency Not used
- Appendix I: Form of Guarantee for Advance Payments

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in Moscow, Russian Federation, in their respective names as of the day and year first above written.

CEO / SEAL

II. GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions

1.2 Relation between the Parties

1.3 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.4 Language

1.5 Headings

1.6 Notices

1.7 Location

1.8 Authority of Member in Charge

1.9 Authorized Representatives

1.10 Taxes and Duties

COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

2.2. Termination of Contract for Failure to Become Effective

2.3 Commencement of Services

2.4 Expiration of Contract

2.5. Entire Agreement

2.6 Modification

2.7 Force Majeure

2.7.1 Definition

2.7.2 No Breach of Contract

2.7.3 Measures to be Taken

2.7.4 Extension of Time

2.7.5 Payments

2.7.6 Consultation

2.8 Suspension

2.9 Termination

2.9.1 By the Client

2.9.2 By the Consultants

2.9.3. Cessation of Rights and Obligations

2.9.4. Cessation of Services

2.9.5. Payment upon Termination

2.9.6 Disputes about Events of Termination

3. Obligations of the Consultants

3.1. General

3.1.1 Standard of Performance

3.1.2 Law Governing Services

3.2 Conflict of Interests

3.2.1 Consultants not to Benefit from Commissions, Discounts, etc.

3.2.2. Procurement Rules of Funding Agencies

3.2.3. Consultants and Affiliates not to Engage in Certain Activities

3.2.4. Prohibition of Conflicting Activities

3.3. Confidentiality

3.4. Liability of the Consultants

3.5. Insurance to be taken out by the Consultants

3.6. Accounting Inspection and Audition

3.7. Consultant's Actions Requiring

Clients Prior Approval

3.8 Reporting Obligations

3.9. Documents prepared by the Consultants to be the Property of the Client

3.10 Equipment and Materials Furnished by the Client

4. Consultants' Personnel and Sub-Consultants

4.1 General

The Consultants shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services.

4.2 Description of Personnel

4.3. Approval of Personnel

4.4. Working Hours, Overtime, Leav, etc.

4.5 Removal and/or Replacement of Personnel

4.6 Resident Project Manager

Obligations of the Client

5.1. Assistance and Exemptions

5.2. Access to Land

5.3 Change in the Applicable Law

5.4 Services, Facilities and Property of the Client

5.5 Payment

5.6 Counterpart Personnel

6. Payments to the Consultants

6.1 Cost Estimates; Ceiling Amount

6.2 Remuneration and Reimbursable Expenditures

6.3. Currency of Payment

- (a) Foreign currency payments shall be made in the currency of currencies specified as foreign currency or currencies in the SC, and local currency payments shall be made in the currency of the Government. When not otherwise stipulated, payment shall be made in EURO.
- (b) The SC shall specify which items of remuneration and reimbursable expenditures shall be paid, respectively, in foreign and in local currency.

6.4 Mode of Billing and Payment

7. Fairness and Good Faith

7.1. Good Faith

The Parties undertake to act in good faith with respect to each others rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

7.2. Operation of the Contract

The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. Settlement of Disputes

8.1. Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or the interpretation thereof.

8.2. Dispute Settlement

III. Special Conditions of Contract

Number of GC Amendments of, and Supplements to, Clauses in the General Conditions of Contract

1.1. (i) Subclause 1.1 (j) GC should read as follows:

“Party” means the Client, the Project Manager or the Consultants, as the case may be, an “Parties” means all of them.

“Third party” means any person or entity other than the Government, the Client, the Project Manager, the Consultants or a Sub-Consultant.

1.1. (p) “The Client” means beijing zhong jiao jing hua highway engineering technique co. LTD and beijing zhongtong siwei highway bridge technical consultants co. ltd

1.1. (r) “The Consultants” means the German Company legally registered in Berlin “Berlinmod – Modern Tech. Consultants GmbH, Ritter Str. 14, 13597 Berlin

1.1. (s) “The Project Manager” means Non-commercial Foundation for Enterprise Restructuring and Financial Institutions Development which is responsible for supervising the execution of the Services and administering the Contract.

1.4 The language is English, Chinese and German.

1.6.1. The addresses are:

Europe, China, Germany: see Contract

1.6.2. Notice will be deemed to be effective as follows:

(a) in the case of personal delivery or registered mail, on delivery;

(b) in the case of facsimiles, 48 (forty eight) hours following confirmed transmission

1.8. The Member in Charge is Berlinmod GmbH

1.9. The Authorized Representatives are:

3.4. Limitation of the Consultants Liability towards the Client

(a) Except in case of gross negligence or wilful misconduct on the part of the Consultants or on the part of any person of firm acting on behalf of the Consultants in carrying out the Services, the Consultants, with respect to damage caused by the Consultants to the Client’s property, shall not be liable to the Client:

4.6. The words “and the Project Manager” are added after the words “the Client”

The person designated as resident project manager in Appendix C shall serve in that capacity, as specified in Clause GC 4.6.

$$R_f = R_{fo} \times I_f$$

where R_f is the adjusted remuneration, R_{fo} is the remuneration payable on the basis of the rates set forth in Appendix G for remuneration payable in foreign currency, I_f is the official index for salaries in the country of the foreign currency

for the first month for which the adjustment is supposed to have effect, and Ifo is the official index for salaries in the country of the foreign currency for the month of the date of the Contract.

The official source for indexes of salaries (If) and (Ifo) is Bureau of Labour Statistics, Washington, USA.

6.2. (b) (i) (1) It is understood (I) that the remuneration rates shall cover (A) such salaries and allowances as the Consultants shall have agreed to pay to the Personnel as well as factors for social charges and overhead, (B) the cost of backstopping by home office staff not included in the Personnel listed in Appendix C, and the Consultants' fee, (ii) that bonuses or other means of profit-sharing shall not be allowed as an element of overhead, and (iii) that any rates specified for persons not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable salaries and allowances are known.

(2) Remuneration for periods of less than one month shall be calculated on an hourly basis for actual time spent in the Consultants home office and directly attributable to the Services (one working hour being equivalent to 1/176 of the a month) and on a calendar-day basis for time spent away from office (one working day being equivalent to 1/22 of a month)

6.2. (b) (ii) The rates for Personnel are set forth in Appendix G.

6.3. (a) The foreign currency shall be United States Dollars.

6.3. (b) (i) Remuneration for foreign and local Personnel shall be paid in accordance with the Applicable Law.

6.3. (b) (ii) The reimbursable expenditures in foreign currency shall be the following:

(1) a per diem allowance for each of the foreign or local Personnel for every day in which such Personnel shall be absent from his home office and shall be outside the country of the Government for the purpose of the Services at the daily rate specified in Appendix G; ;

(2) the following transportation costs:

(i) the cost of international transportation of the foreign Personnel and, as specified below, by the most appropriate means of transport and the most direct practicable route to and from the Consultants home office; in the case of air travel, this shall be by economy class;

(ii) for any foreign Personnel spending twenty-four (24) consecutive months or more in the Governments country, one extra round trip only of upon their return to the Governments country, such Personnel are scheduled to serve for the purposes of the Project for a further period of not less than six (6) consecutive months;

for foreign currency: To be indicated to the Project Manager by the Consultants in writing.

1. Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions:

Bestellung

Trempel & Associates (Corporate Solutions) Ltd.

China Business Forum

c/o Chinaproject.de

Spichernstr. 15

10777 Berlin

via Fax: 030- 218 54 32

Hiermit bestellen wir rechtsverbindlich den ausführlichen Vertragsmusterentwurf (Englische Fassung) gegen Entrichtung der Schutzgebühr von derzeit 300,00 € + 19% USt. 57,00= 357,00 €.

- zutreffendes bitte ankreuzen.

Die Mustervertragsentwürfe werden in Word.DOC zur Verfügung gestellt.

Uns ist bekannt, dass es sich bei dem Entwurf nur um eine Arbeitshilfe handelt, die eine besondere Überprüfung der Tauglichkeit im konkreten Anwendungsfall nicht ersetzt.

Absender:

Name/Firma/Company: _____

Ansprechpartner: _____

Abteilung: _____

Straße/Street: _____

PLZ/Stadt/post code/city: _____

Tel.: _____

Fax: _____

Email: _____

Homepage: _____

Anzahl der Exemplare: _____

Unterschrift/Signature: _____

TREMPEL & ASSOCIATES
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