**THE TRIPARTITE AGREEMENT**

**ON DIRECT SETTLEMENT WITH THE SUB-SUPPLIER**

**\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Vilnius, No. \_\_\_\_\_\_\_\_\_\_\_\_**

**LITGRID AB** (hereinafter referred to as the Customer), a company established and operating in accordance with the laws of the Republic of Lithuania, legal entity code 302564383, registered office address Karlo Gustavo Emilio Manerheimo str. 8, Vilnius, the Republic of Lithuania, the data about which are collected and stored in the Register of Legal Entities of the Republic of Lithuania, represented by [*position, name, surname*], acting in accordance with [*the grounds of representation*] and [*position, name, surname*], acting in accordance with [*the grounds of representation*],

**[****title of Contractor ]** (hereinafter referred to as the Contractor), a company legally registered and operating in accordance with the laws of the Republic of Lithuania, legal entity code [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], registered office address [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], the Republic of Lithuania, the data about which are collected and stored in[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], represented by [*position, name, surname*], acting in accordance with [*the grounds of representation*], and

**[title of Subcontractor]** (hereinafter referred to as Subcontractor), a company legally registered and operating in accordance with the laws of the Republic of Lithuania, legal entity code [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], registered office address [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], Republic of Lithuania, the data about which are collected and stored in[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_], represented by [*position, name, surname*], acting in accordance with [*the grounds of representation*]

hereinafter the Customer, the Contractor and the Subcontractor are each individually referred to as the Party and collectively referred to as the Parties.

The Parties, in the view of the fact that:

* The Customer and Contractor concluded the contract on procurement of design and construction works of (enter the object of the contract) No \_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the Contract) on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_. The Contractor employed the Subcontractor for the execution of the part of the Contract, i.e. (enter outsourced services/goods/works), which is foreseen and specified in the Annex “Information about subcontractors” submitted with the tender/application or, if the Subcontractor was not known at the time of submission of the tender/application or was changed during the execution of the Contract, then the one specified in the notice of the Contractor \_\_ \_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_.
* Paragraph 2 of Article 96 of the Law on Procurement by Contracting Entities in the Fields of Water Management, Energy, Transport or Postal Services of the Republic of Lithuania (hereinafter referred to as the PL) provides for the right of a subcontractor to exercise the option of the direct settlement.
* The Customer informed the Subcontractor in writing about the possibility of direct settlement on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_.
* The Subcontractor submitted a written request to the Customer on the direct settlement with him for the services provided/goods supplied/works completed,

and with a view to establishing a procedure for direct settlement with the Subcontractor in accordance with Clause 29 of the Special Terms and Conditions of the Contract,

have entered into this Tripartite Agreement on Direct Settlement with the Subcontractor (hereinafter referred to as the Tripartite Agreement).

1. **SUBJECT MATTER OF THE AGREEMENT**
   1. The Customer shall undertake to pay the Subcontractor directly for the services provided/goods supplied/works performed under the terms and conditions and in accordance with the procedure specified in the Tripartite Agreement.
2. **CONFIRMATIONS AND GUARANTEES OF THE PARTIES**
   1. Each Party shall declare and guarantee to the other Parties that:
      1. The Party has taken all legal action necessary for the proper conclusion, validity and enforcement of the Tripartite Agreement.
      2. When entering into the Tripartite Agreement, the Party does not exceed its competence, the conclusion thereof, the fulfilment of the obligations assumed by the Parties under this Tripartite Agreement does not contradict or violate (i) any decision, order, decree or instruction of a court, arbitration, state or local authority which is applicable to the Parties; (ii) any contract or any other transaction to which the Party concerned is a party, or (iii) the provisions of any law or regulatory act applicable to the Parties.
      3. The representatives of the Party, having signed this Tripartite Agreement, shall be duly authorized by the Party to sign it and the personal data of the Parties and/or their representatives necessary for the proper conclusion of the Tripartite Agreement shall not be considered confidential information.
      4. The Tripartite Agreement is a valid, legal and binding obligation of the Party, the performance of which may be required under its terms and conditions.
      5. On the date of entry into force of the Tripartite Agreement, its terms and conditions are clear to the Parties and to be enforced by the Parties.
      6. This Tripartite Agreement is concluded in accordance with the provisions of the Contract, the PL and other legal acts. In case of discrepancies between the terms and conditions of the Tripartite Agreement and the requirements set out in the PL, the norms of the PL shall apply. The Parties state and confirm that the provisions of this Tripartite Agreement are not in conflict with the provisions of the Contract.
3. **SETTLEMENT PROCEDURE**

3.1. The advance payment shall not be paid.

3.2. The amount of each payment/interim payment to the Subcontractor shall be determined on the basis of the scope and value of the services actually provided and/or goods supplied and/or works performed.

3.3. The scope and value of the services provided and/or goods supplied and/or works actually performed by the Subcontractor must be specified in the deed of works performed. The deed of works performed shall be drawn up in three copies and signed by the representatives of the Contractor, the Customer and the Subcontractor.

3.4. The deed of works performed shall include services provided/goods supplied/works performed by the Subcontractor conforming to the terms and conditions of the Contract.

3.5. By signing the deed of works performed, the Contractor and the Subcontractor shall confirm that they agree with the scope and value of the services provided/goods supplied/works performed by the Subcontractor specified in this deed and with the direct settlement with the Subcontractor. By signing the deed of works performed, the Parties confirm the fact of performance of the Works specified therein; however, signing this deed shall not mean that the Works have been performed without defects and shall not release the Contractor from liability for defects in accepted Works which have subsequently emerged.

3.6. The deeds of works performed shall be signed by the Parties at least once a month as long as the Works are being performed. Where a technical project referred to in the Contract is prepared by the Subcontractor, the first deed of works performed shall be signed only after the Technical project has been prepared and the log of Works has been signed.

3.7. The deed of works performed shall be submitted to the Customer by the 25th day of the calendar month at the latest. In the absence of a timely submission of the deed of works performed, the Customer shall have the right to postpone the signing of the deed of works performed to the acceptance of the Works performed in the following month.

3.8. The services provided/goods supplied/works performed by the Subcontractor shall be recorded in the deed of works performed only when the Contractor/Subcontractor actually performs the Works specified in the Schedule to the extent (expressed as a percentage of the asset unit) provided for in the updated Schedule.

3.9. Equipment and materials supplied by the Subcontractor shall be entered in the deed of works performed only if they are properly installed and all documentation of the equipment (technical descriptions, quality certificates, technical passports, warranty conditions, operating instructions and user manuals) is submitted to the Customer.Non-installed materials and equipment shall not be included in the deed of works performed.

3.10. The Customer shall, within five working days from the receipt of the deed of works performed, verify it and sign or reject it and submit motivated comments. If the Customer does not provide a response within the specified term and within five working days after a repeated written request from the Contractor/Subcontractor, the Customer shall be deemed to have approved the deed of works performed.

3.11. Only after receiving an unconditionally harmonized and signed deed of works performed by all Parties, the Subcontractor shall form an electronic invoice/VAT invoice (hereinafter referred to as an Electronic Invoice) and submit it to the Customer together with the deed of works performed by means selected by the Subcontractor: the Subcontractor may submit Electronic Invoices that comply with the requirements of EU Directive 2014/55 or submit Electronic Invoices in another format using the electronic service “E-invoice”(the website of the electronic service “E-invoice” is available at [www.esaskaita.eu](http://www.esaskaita.eu)). Where the Subcontractor submits an invoice/VAT invoice by other means, the Customer shall not settle such an invoice.

3.12. All settlements under this Tripartite Agreement shall be made in Euro (if another currency is used for settlements in the Contract concluded between the Customer and the Contractor, this currency shall be specified).

3.13. The Contractor shall have the right to object to unjustified payments under this Tripartite Agreement.

**4. LIABILITY OF THE PARTIES**

4.1. The Parties shall undertake to duly fulfil their obligations specified in the Tripartite Agreement and to refrain from any actions that could harm each other or impede the fulfilment of the obligations assumed by the other Parties.

4.2. The Contractor shall be liable to the Customer for non-performance or improper performance of the Subcontractor’s obligations, and to the Subcontractor for non-performance or improper performance of the Customer’s obligations.

4.3. The Customer and the Subcontractor shall not have the right to express to each other monetary claims related to the breach of the contracts concluded by each of them with the Contractor.

**5. TERMINATION OF TRIPARTITE AGREEMENT**

5.1. The Tripartite Agreement shall terminate automatically in the following cases:

5.2.1. Where the Subcontractor notifies the Customer in writing that he refuses the direct settlement method.

5.2.2. Where the Contractor and the Subcontractor terminate the subcontracting contracts and inform the Customer in writing thereof.

5.2.3. When the Contract is terminated.

**6. ENTRY INTO FORCE AND VALIDITY OF THE AGREEMENT**

6.1. This Tripartite Agreement shall enter into force on the date of its signing by all Parties and shall remain in force until the full performance of the contractual obligations with the Subcontractor, but not longer than the validity term of the Contract, or until the termination thereof.

**7. THE CONTACT ADDRESSES FOR SENDING NOTICES AND THE PERSONS RESPONSIBLE FOR THE IMPLEMENTATION OF THIS TRIPARTITE AGREEMENT**

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| --- | --- | --- |
| **Responsible person of the Customer:** | **Responsible person of the Contractor:** | **Responsible person of the Subcontractor:** |
| *(Position, name, surname)* | *(Position, name, surname)* | *(Position, name, surname)* |
| Tel.: | Tel.: | Tel.: |
| E-mail: | E-mail: | E-mail: |

**8. FINAL PROVISIONS**

7.1. All relations between the Parties arising from this Tripartite Agreement and not discussed in its terms and conditions herein shall be regulated by the laws and other legal acts of the Republic of Lithuania.

7.2. The Contractor understands and does not object to the reduction of the amount payable under the Contract to the extent that it will be paid directly to the Subcontractor under this Tripartite Agreement. Amounts paid directly to the Subcontractor under this Tripartite Agreement may not be included in the Contractor’s invoices to be submitted to the Customer.

7.3. The Contractor and the Subcontractor shall not be entitled to assign rights and obligations under this Tripartite Agreement.

7.4. The Parties shall undertake to settle all disputes concerning the implementation of this Tripartite Agreement through negotiations. If the Parties are unable to resolve these disputes through negotiations, they shall be resolved in the courts of the Republic of Lithuania in accordance with the procedure established by legal acts.

7.5. This Tripartite Agreement is drawn up in three copies of equal legal force, one for each Party.

**9. ANNEXES:**

8.1. Each Annex to this Agreement shall form an integral part thereof. Each Party shall receive one copy of each Annex to the Agreement.

**10. DETAILS OF THE PARTIES**

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| **Customer:**  **LITGRID, AB**  Company code: 302564383  Address: Karlo Gustavo Emilio Manerheimo str. 8, Vilnius  Tel. +370 707 02171  E-mail: info@litgrid.eu  Acc. LT242150050000021766  OP Corporate Bank plc, Lithuanian branch  (bank code 21500)  VAT payer’s code LT100005748413 | **Contractor:**  Title  Company code:  Address:  Tel.  E-mail:  Acc. No  Bank  Bank code  VAT payer’s code | **Subcontractor:**  Title  Company code:  Address:  Tel.  E-mail:  Acc. No  Bank  Bank code  VAT payer’s code |

|  |  |  |
| --- | --- | --- |
| On behalf of the Customer:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Position, name, surname, signature)  (Position, name, surname, signature) | On behalf of the Contractor:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Position, name, surname, signature) | On behalf of the Subcontractor:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Position, name, surname, signature) |

1. After the conclusion of the Contract, but not later than the commencement of the performance of the Contract, the Contractor shall undertake to notify the Customer of the names, contact details, and representatives of the Subcontractors known at that time. The Contractor must also inform the Customer of any changes in this information throughout the performance of the Contract, as well as of any new subcontractors which he intends to employ at a later date.
2. Subcontractors employed by the Contractor shall be enabled to request the Customer to settle with them directly. The Customer shall inform the subcontractors employed by the Contractor in writing about the possibility of direct settlement option and the procedure of such settlement at least within three working days from the receipt of the Contractor’s information on known subcontractors, and the Subcontractor shall submit a written request for direct settlement. The Subcontractor’s request must be accompanied by a written confirmation from the Contractor that the Contractor will not object to direct settlement with the Subcontractor following the proper performance of its obligations under this Contract.
3. The procedure of direct settlement with the subcontractor shall be established in a Tripartite Agreement concluded between the Customer, the Contractor and the Subcontractor. The draft tripartite agreement is set out in Annex 22 to the Special Terms and Conditions of the Contract.
4. The amount payable to the Contractor under this Contract shall be reduced by the amount payable under the Tripartite Agreement(s) directly to the Subcontractor(s). Amounts paid directly to the Subcontractor(s) under the Tripartite Agreement(s) may not be included in the Contractor’s invoices to the Customer.
5. The Subcontractor shall have the right to exercise the option of the direct settlement in accordance with the procedure set forth in the framework procurement agreement.