

City of Copenhagen

Appendix [X] – Labour Clause

Labour clause concerning the protection of workers' rights in connection with work executed for the City of Copenhagen

1. The obligation

The Supplier shall ensure that the employees of the Supplier and of any subcontractor, including any subcontractor of the subcontractors, and throughout any chain, who contribute to the execution of the contract in Denmark, are ensured pay (including special payments), working hours and other employment conditions which are not less favourable than those which are applicable to work of the same kind under a collective agreement entered into by the most representative labour market parties in Denmark within the industrial area in question and which are applicable to the entire Danish territory.

Furthermore, the Supplier is committed to ensure terms of employment which are not less favourable than those applicable by arbitration, by national legislation or by administrative regulations.

The Supplier shall ensure that the employees of the Supplier and of any subcontractors, including any subcontractor of the subcontractors and throughout any chain, are informed about the applicable working conditions.

1.1. Requirements to the employment conditions and to the identification of the employee

Within four weeks of the commencement of the work, every employee must receive a contract of employment and must be informed by the Supplier about the pay applicable (including special payments), working hours and other employment conditions. Furthermore, the Supplier is responsible for ensuring that only workers holding a valid residence and work permit are in its employ. At any time, all employees must carry a valid photo ID card at the working place.

1.2. Requirements for stay at the working place, information about the subcontractors and requirements for signs

The City of Copenhagen shall be informed in writing [in due time, before start-up, insert date] about any subcontractor used by the Supplier in connection with the execution of the Agreement, by stating name and CVR no./RUT no. or any equivalent registration no.

Furthermore, at meetings concerning building, operation, status or similar, the Supplier shall provide the City of Copenhagen with information on the subcontractors which are executing the work covered by the Agreement at the working place in a predefined period and with information on the kind of work.

In relation with building and construction works, the City of Copenhagen may specifically demand that the Supplier indicates with signs the enterprises which are executing the work at the working place by stating name and CVR no./RUT no. Moreover, the signs must contain information about the hotline of the City of Copenhagen. However, signs are always mandatory for any building and construction work of a duration beyond one month.

At any time, the Supplier is subject to the instructions of the City of Copenhagen concerning stays at the working places of the City of Copenhagen. With this requirement, the City of Copenhagen reserves the right to issue instructions concerning stays within the area of the City of Copenhagen. Examples hereof may be regulations on undesirable stays at the working place, prohibitions against overnight stays at the working place, etc.

1.3. Requirements to the registration of foreign service providers

If the Supplier or its subcontractors are bound to report to the RUT register, the Supplier is obligated to ensure that they fulfill their obligations and that they submit on their own initiative a receipt for the notification to the City of Copenhagen instantly upon such reporting.

2. Documentation for the fulfillment of the obligation

The Labour clause distinguishes between requirements to documentation and requirements to reporting.

2.1. Documentation

The burden of proof lies with the Supplier that the obligation, in accordance with Section 1 of the Labour clause, has been fulfilled. Upon request the City of Copenhagen may require documentation for the fulfillment hereof on behalf of the Supplier and its subcontractors. The City of Copenhagen may require documentation directly from the employees of the Supplier or of its subcontractors.

As a minimum the relevant documentation must include salary statements, time sheets including start and end time, electronic income receipts, payroll accounts, residence and work permits, employment contracts and the frame of reference applied by the Supplier in relation to the setting of wages and employment conditions for the employees. In addition, the City of Copenhagen may ask the Supplier to send other relevant documents in the specific case. The documentation must be kept by the Supplier throughout the entire agreement period.

2.2. Reporting

If the City of Copenhagen suspects an infringement, the Supplier shall submit a satisfactory report on demand.

As a minimum the Supplier shall account for the terms of employment, working time and pay apart from housing, transportation, and provisioning when it is part of the employer's responsibility. In the specific case, the City of Copenhagen may ask the Supplier to elaborate on other relevant matters.

2.3. Time limits

The documentation must be received by the City of Copenhagen no later than five working days after the dispatch of the formal request by the City of Copenhagen. The report must be received by the City of Copenhagen no later than 10 working days after the dispatch of the formal request by the City of Copenhagen, unless otherwise specifically agreed upon. However, the time limit may be extended to maximum 10 working days for the documentation and 20 working days for the report.

2.4. Disclosure of documentation

On a case-by-case basis and within the current legal framework, the City of Copenhagen may disclose any information which serves as documentation for the fulfillment of the requirements in the Labour clause according to Section 2.1 and 2.2 to the Danish Tax Agency or to the Danish Working Environment Authority if such disclosure is deemed to be essential to the exercise of the public authorities.

On a case-by-case basis, the City of Copenhagen may disclose to the police any information which serves as documentation for the fulfillment of the requirements in the Labour clause according to Section 2.1 and 2.2 if a suspicion of a criminal offence exists.

3. Sanctions for the non-fulfillment of the obligation

Serious breaches of the Labour clause on behalf of the Supplier or its subcontractors will always entitle the City of Copenhagen to terminate the Agreement in whole or in part.

If the Supplier becomes liable to the sanctions cited below or other remedies in the event of default, the Supplier will not be exempted from the obligation to fulfill the Agreement.

3.1. Sanctions in case of the Supplier's breach of Section 1 in the Labour Clause on pay- and working conditions

The City of Copenhagen is entitled to the withholding of remuneration with a view to the consideration of legitimate claims on behalf of the employees of the Supplier or of the subcontractors. A legitimate claim is defined as an employee claim for pay (including special payments) up to the level indicated in the Labour clause.

If the condition for the withholding of remuneration is met and if the remuneration withheld cannot be paid to the employees in question, the remuneration withheld will accrue to the City of Copenhagen.

In case of serious breach of Section 1 in the Labour clause, the Supplier will become liable to a penalty in addition to the claim of back pay to the employee. The penalty corresponds to 50% of the underpayment. A serious breach is defined as underpayment which amounts to 15% or more of the entire pay (including special payments) calculated per every employee. The penalty is accrued to the City of Copenhagen.

Moreover, upon breach of Section 1 in the Labour clause, the Supplier will become liable to a penalty if the Supplier does not effectuate backpay to the employee upon the request by the City of Copenhagen. The penalty per working day commenced corresponds to [insert the per mille of the contract price], however as a minimum [insert the amount in DKK per day] from the expiration of the time limit as a claim on backpay and until the receipt by the City of Copenhagen of documentation that the breach has ceased. The amount may be offset against the remuneration of the Supplier.

If a Subcontractor infringes Section 1 in the Labour clause, the Supplier is committed to ensure that the subcontractor will rectify the matter. In case of serious or repeated breaches of Section 1 in the Labour clause on behalf of the subcontractor, the City of Copenhagen may request that the Supplier ceases to employ the subcontractor in question to execute the Agreement. In this context, the Supplier is not entitled to a compensation, indemnities or an extension of the Agreement period.

3.2. Sanctions in case of the Supplier's infringement of Section 2 in the Labour Clause regarding the obligation of documentation

Upon breach of Section 2 in the Labour clause, the Supplier will become liable to a penalty for the omission to submit a report or true and fair documentation for pay and employment conditions. The penalty per each working day commenced corresponds to [insert per mille of the amount of the agreement], however minimum [insert amount in DKK per day], until the Supplier has met the demand of the City of Copenhagen.

3.3. Workers' Compensation insurance

In case the Supplier is not able to provide documentation for a workers' compensation insurance written for the entire period covering the execution of work for the City of Copenhagen, the Supplier is liable to pay a penalty of DKK 5,000 per each employee. Henceforth, the Supplier will become liable to a daily penalty of DKK 2,000 per each employee until the situation has been remedied and the documentation has been submitted.

4. Visits at the work site

Throughout the entire period of Agreement, the City of Copenhagen or third party may pay unannounced visits at the working place to ensure the observance of the Labour clause.