



R&M's terms and conditions for subcontractors PRC (version of April 2021)

1. Basis of the contract

The contractual documents of this agreement apply in the following order of precedence:

- I. The negotiating protocol for subcontractor services, together with the corresponding written order.
- II. The performance specifications, along with all and any additions, plans, drawings and samples, etc.
- III. These contractual terms and conditions applying to subcontractors
- IV. The contractual terms and conditions agreed to between the Reinhold & Mahla Company (hereinafter "R&M") and its client (hereinafter "the end customer") in accordance with sect. 2 of the negotiating protocol, insofar as this affects the contract between R&M and the subcontractor.
- V. All applicable technical specifications and recognised industrial standards, in their corresponding latest versions.

Unless explicitly agreed, the subcontractor's general terms and conditions of business, delivery, sale and payment shall not become a binding part of the contract. The same shall apply to all and any reservations, assumptions and restrictions, etc. that the subcontractor might express prior to negotiations which shall only form part of the contract if the parties have expressly agreed upon such an inclusion.

2. Scope of services

- 2.1. All services (including supplementary services) provided by the subcontractor which are necessary to achieve the purpose of the contract according to the contractual basis are compensated by the unit-prices and lump sums agreed on the basis of the agreement, for achieving the contractual purpose of that agreement. This applies in particular to all wages, salaries, fees, costs, expenses, licences, charges and relevant taxes. These prices also cover the subcontractor's costs of training R&M employees in the operation and maintenance of items of equipment and systems supplied and/or installed by the subcontractor.
- 2.2. R&M reserves the right to amend plans and drawings and specify other arrangements.
- 2.3. The subcontractor undertakes to supply at R&M's request services that have not been agreed on in the contract, but which are required for the completion of contractual scope, unless its operating facilities do not allow for the delivery of such services. Other services can only be assigned to the subcontractor with its consent.

3. Remuneration

- 3.1. Contractual prices are fixed and understood to be net amounts without value added tax (VAT). VAT shall be compensated separately after the date on which it falls due and in accordance with applicable statutory provisions.
- 3.2. The subcontractor shall be entitled to separate remuneration for services not stipulated in the contract. The subcontractor however has to announce his claim for additional remuneration before commencing the performance of the respective works. Remuneration shall be determined in accordance with the calculation of contractual scope and the specific costs of the additional services.
- 3.3. Quotations for additional claims shall be submitted in accordance with the base calculation, without discount. The agreed discount shall be taken into account only after R&M has issued the corresponding order. The subcontractor undertakes to disclose its price calculations regarding hourly rates, hourly wages, material costs and surcharges. The subcontractor must submit his quotation for commencing the respective additional works. If the subcontractor fails to do so, R&M is entitled to fix prices for additional works at reasonable discretion.
- 3.4. Services that the subcontractor supplies without an order, or on the basis of its own interpretation of the agreement, shall not be reimbursed. The subcontractor shall remove the respective works and supplies within a reasonable time. R&M shall otherwise be entitled to conduct replacements at the subcontractor's expense. The subcontractor shall furthermore be liable for all other loss and damage incurred by R&M in this respect. The subcontractor shall nevertheless be entitled to remuneration if R&M subsequently approves the services concerned. The subcontractor shall be entitled to compensation if the services were required for fulfilment of the contract, are in accordance with R&M's interest and were notified immediately to the same.
- 3.5. Work charged at hourly rates shall only be remunerated if such work was specifically agreed to before its commencement. The records for performed man-hours shall be submitted to R&M site management no later than two working days after completion of the respective works. If subsequent verification reveals that contractual services (including services) are covered by previously signed records for performed man-hours, these shall not be remunerated. The hourly wage rates agreed to between R&M and the subcontractor include all additional costs such as social security

contributions, taxes and other charges, applicable allowances and supplements, travel, accommodation and PSE, work clothes and other equipment, unless otherwise specifically agreed to with the subcontractor concerned.

4. Production documentation

- 4.1. The subcontractor shall request from R&M in a timely manner the information and documents which are required to perform the contractual services and shall review them immediately after receipt for completeness and correctness. The subcontractor shall verify or check all the information made available in the documents provided by R&M, insofar as it concerns services supplied by the subcontractor. The subcontractor must immediately notify R&M of any discrepancies. The production tolerances agreed on the basis of specified measure shall be mutually agreed with R&M. The subcontractor shall bear all the negative consequences affecting R&M and himself in the event of failure to fulfil these obligations.
- 4.2. R&M shall retain legal title to all drawings, calculations, certificates and all other project-related documents supplied to the subcontractor. The subcontractor shall use them only for confirmed contractual purposes and is not entitled to release them publicly or otherwise make them available to any third party or parties without the previous consent of R&M.

The subcontractor shall not publish details of its services or of any part of the construction project without the prior consent of R&M. The subcontractor undertakes not to disclose to any third party or parties the business secrets and/or confidential information that he might acquire relating to the subcontractor agreement.

- 4.3. The subcontractor shall produce, without further charge, all the calculations and completion plans required for its services, insofar as R&M does not supply such items, and shall make them available for use by R&M in a timely manner and without being asked to do so, in such a way that gives R&M reasonable time to verify them and carry out possible corrections without any delay to construction work carried out by the subcontractor. The term "reasonable time" normally refers to a period of three weeks. If the subcontractor fails to meet this deadline, and the late issue of approval of calculations and completion plans leads to delays, the subcontractor cannot allege that he has been impeded in the discharge of its duties. The subcontractor shall continue to be responsible and liable, even after submission to R&M, for the completeness and accuracy of the project-related documents that the subcontractor procures or draws up.
- 4.4. The subcontractor undertakes to verify, in a timely and adequate manner, the actual nature and location of the construction site, its accessibility and its suitability for the delivery of the subcontractor's services. The subcontractor furthermore undertakes in particular and on its own initiative to verify the presence and location of power and utility supplies, drains, sewers and cables, etc. in the corresponding working locations.

5. Completion

- 5.1. R&M shall be entitled to make instructions, with the involvement of the subcontractor's management team, to ensure the contractual delivery of services. If the subcontractor feels that R&M's measures are unjustified or inappropriate, it should express its reservations in writing, but must nevertheless apply the measures concerned if asked to do so, unless otherwise established by statutory provision or official regulation.
- 5.2. If the subcontractor has reservations regarding the intended execution of the contractual services, the quality of materials or components supplied by R&M or the services of other subcontractors, he must notify R&M in writing without delay, preferably before the commencement of the respective services. If it fails to do so, he shall bear full responsibility for all and any loss, damage and costs that might result from the breach of duty concerned.
- 5.3. The subcontractor shall adequately protect from damage and theft and insure, as appropriate, up to the moment of acceptance, his completed work and all items that R&M might supply for this purpose.
- 5.4. The subcontractor shall designate, before work begins, the site manager in charge. The person concerned must be fluent in the contractual language. This person and/or his or her designated deputy (likewise named before work begins) must be present on the site at all times. The subcontractor hereby expressly confirms that his site manager and deputy site manager are empowered to issue declarations of intent both in and against the subcontractor's interests, and that they are authorised to receive notifications.
- 5.5. The subcontractor shall supply, without request, proof of compliance with quality standards of the materials and products used. These include, without being limited to, all and any IMO/MED certificates that might be relevant. The subcontractor shall supply and install, when asked to do so by R&M, samples and trial versions of the materials and components that the subcontractor intends to use. The subcontractor shall bear the costs of these items and of test and production certificates specified by R&M.
- 5.6. R&M may order the subcontractor to expel from the construction site and engage substitutes for all and any employees who are professionally or personally unsuitable, or who fail to use obligatory personal safety equipment, or who cannot provide a valid work permit.
- 5.7. The subcontractor supplies its services on its own behalf in principle. The subcontractor may only further subcontract contractual services if it has the written consent of R&M to do so. This also applies to all and any further subcontracting of services by the subcontractor to other subcontractors and/or service providers, even and insofar as this takes place

in the context of a so-called "subcontracting chain". If the subcontractor engages its own subcontractors, without the written consent of R&M, to deliver services on the construction site or on other operating premises of R&M, R&M may give the subcontractor reasonable notice to begin delivering such services on its own behalf, on the understanding that R&M may terminate the contract if the subcontractor fails to comply before the expiry of this deadline. The subcontractor undertakes, when delivering the service entrusted to it, only to engage employees from outside People's Republic of China if such employees possess a valid residence permit with entitlement to take up employment.

- 5.8. The subcontractor undertakes to remove and dispose of, in the course of each working day, the waste and remains of packaging material that he generates. If the subcontractor fails to meet this obligation despite the granting of a reasonable period of grace, R&M shall be entitled to arrange for disposal at the subcontractor's expense. No period of grace is required for the removal and disposal of combustible waste and packaging materials which, according to SOLAS, must not remain on board a vessel.

6. Impediments and interruptions affecting completion

- 6.1. If the subcontractor believes that he is being impeded in the proper completion of his work, he must immediately notify R&M in writing. This also applies in the event of obvious impediments. The subcontractor shall make all reasonable effort to facilitate the continued completion of his works. The subcontractor must immediately resume work, and notify R&M accordingly, as soon as the circumstances having caused such impediment cease to apply.
- 6.2. If the subcontractor is at least able to continue work in a partial manner, despite the impediment, R&M and the subcontractor shall make joint efforts to mitigate the results of impediment and reach a mutual agreement, if applicable, that reasonably takes into account the restrictions on work arising from such impediment.
- 6.3. If the impeding circumstances are attributable to a contract party, the other party shall be entitled to claim compensation for verifiable loss and damage, although he may only claim for loss of profit in the event of wilful misrepresentation or gross negligence. Obstructions typical for a project of this type shall not entitle either party to claim for compensation.

7. Deadlines, delays and contractual penalties

- 7.1. The individual deadlines stipulated in the agreement (construction schedule) are regarded as binding and contractual.
- 7.2. The subcontractor shall be deemed to have breached deadline obligations in accordance with clause 7.1, without further warning or a period of grace, whenever such breaches are attributable to him.
- 7.3. The contractual penalty for delay shall be calculated at a rate of 0.2% of the total net invoiced amount for each working day by which the final deadline is exceeded; in the event of failure to meet interim deadlines, the contractual penalty shall be 0.2% of the net invoiced amount of that part of performance whose completion deadline has been exceeded. Once a contractual penalty has been applied to a passed interim deadline, it will be added to any subsequent contractual penalties that might apply to further interim and or completion deadlines. Contractual penalties are limited to 5% of the total net invoiced value.
- 7.4. R&M is not obliged to claim contractual penalties at the moment of acceptance, and may furthermore do so right up to the final payment.

8. Cancellation, withdrawal from and termination of the agreement by R&M

- 8.1. R&M may terminate the agreement at any time if it has important reasons for doing so. Notice of termination must be issued in writing. If R&M terminates the agreement, either wholly or partially, the subcontractor shall have no entitlement to claim for loss and damage arising from forgone profits if he is offered a compensatory contract of an equivalent value.
- 8.2. If the subcontractor is unable to carry out his tasks in accordance with the agreement and on schedule, in a manner that threatens the fulfilment of completion deadlines, R&M shall be entitled, after issuing a corresponding warning and granting a period of grace, and without partial termination of the agreement, to arrange for the affected part of the work to be carried out or awarded to another subcontractor at the subcontractor's expense.
- 8.3. R&M shall be entitled to issue an extraordinary notice of termination if the subcontractor fails to fulfil the legal requirements associated with the delivery of his services (e.g. concerning work permits, the payment of taxes and social security contributions, the employment of temporary/agency workers), or is unable to provide, or provide in a timely manner, documentary evidence that R&M is entitled to demand under the terms of the agreement, or if R&M or the completion of the project are likely to be at a significant disadvantage.

9. Liability/insurance

- 9.1. If a third party or parties should take action against R&M for loss and damage attributable to the subcontractor, the subcontractor shall immediately hold R&M harmless against all such resulting claims.

- 9.2. The subcontractor shall provide R&M with evidence of the existence, and maintenance throughout the project period, of suitable insurance supplying adequate cover and up to a sufficient amount. The liability insurance subject to such proof must include an extended product-liability clause, unless the services of the subcontractor are limited exclusively to the installation, repair or maintenance of products manufactured and supplied by third parties, or to the provision of instructions for the use of such products.
- 9.3. Failure to provide proof of such insurance cover shall entitle R&M, after the issuing of a warning and the granting of a suitable period of grace, to terminate the agreement or conclude a liability insurance, in favour of the subcontractor and at his expense, for the amount of the apparently missing insurance cover.

10. Acceptance

- 10.1. The subcontractor shall notify R&M in writing of the completion of his services.
- 10.2. A formal acceptance procedure is mandatory. Either party may arrange for the presence, at its own expense, of a qualified expert, whose findings shall be confirmed in writing in the course of joint negotiation. This written record shall include all and any reservations regarding known defects and contractual penalties, along with any objections on the subcontractor's part. Each party shall receive a copy of that record.

However, if and insofar it is agreed that the subcontractor's services are to be accepted by R&M in the course of the end-customer's approval of overall performance, it is normally sufficient that R&M provides the subcontractor with a summary of the overall acceptance report. The acceptance deadline and R&M's rights of reservation likewise apply with effect to the subcontractor in such cases. The subcontractor may however request separate, formal acceptance of his services, provided he has notified R&M accordingly in the written notification of completion.

11. Claims due to defects

- 11.1. The period of limitation for warranty claims concerning the contractor's services in their entirety is 25 months, unless otherwise specifically agreed. The period covered by the warranty begins with the complete, defect-free transfer or acceptance, respectively, of the goods or services concerned.
- 11.2. Whenever it is asked to do so in writing by R&M, the subcontractor shall rectify, at his own expense and throughout the period covered by the warranty, all defects attributable to the failure of contractual services. The demand to remedy the defect in question shall expire at the end of two years, counted from the receipt of the corresponding written request, but not before the expiry of the period defined in clause 11.1. Once the corresponding repair or remedy has been accepted, the warranty covering the service concerned shall again run for two years, but shall in any case not expire before the date defined in clause 11.1.

If the subcontractor fails to rectify a defect within a reasonable time defined by R&M, R&M shall be entitled to have the defect repaired at the subcontractor's expense.

- 11.3. The subcontractor hereby assigns to R&M, in the event the contract being awarded, all and any defect, warranty and/or loss-and-damage claims that might be made against the subcontractor's own subcontractors and suppliers during the fulfilment of this contract. R&M hereby accepts this assignment in his favour. The subcontractor must envisage, in his agreements with its own subcontractors and suppliers, the assignment of his claims to R&M. The subcontractor's liability for defects remains unaffected by this assignment of claims.

12. Payment

- 12.1. Invoices shall be issued, depending on contractual agreements, for a lump sum or at mutually agreed rates. The accumulated invoices submitted must be verifiable and must include the corresponding and clearly legible order number, project designation, project number, a breakdown of services supplied and details of all payments received.
- 12.2. Final payment should be made subject to deduction of the agreed amount retained for warranty claims. If there is no separate agreement regarding the amount retained for such claims, it is agreed that 5% of the total invoiced amount shall be retained. The payment of the final invoice shall not exclude further claims regarding incorrectly calculated services or receivables. No claims shall be made for lost or forgone profit.
- 12.3. R&M shall settle payments within 30 calendar days, unless otherwise expressly agreed.
- 12.4. The payment period shall commence on the date of receipt of the invoice concerned. The date of issuing the payment instruction to the bank or the posting date of the cheque shall be determined for timely payment by R&M.

13. Health and safety in the workplace

- 13.1. The subcontractor shall be responsible for the full observance of all statutory provisions and end-client specifications that might be in force during the delivery of services regarding the workplace health and safety of his employees and those of his own subcontractors.

- 13.2. R&M's site manager shall be entitled to issue instructions regarding workplace health and safety to employees of the subcontractor and of its suppliers. A coordinator appointed by the end-customer shall likewise be authorised to issue such instructions.
- 13.3. The subcontractor shall appoint the supervisor to act and negotiate on his behalf in the completion of the order. The subcontractor shall nominate his site supervisor by written notification to R&M's site manager before commencing performance of services.
- 13.4. The subcontractor shall require special permission for all and any use that it might make of R&M's plant equipment or machinery during the delivery of its services. R&M shall issue the corresponding instruction(s) to the subcontractor's supervisor, who shall in turn be solely responsible for instructing the employees of the subcontractor and those of his own subcontractors.
- 13.5. The subcontractor shall notify R&M site management immediately and in writing of every workplace accident involving his site employees that requires a doctor's attention.
- 13.6. R&M shall be entitled to expel from the construction site any individual employee of the subcontractor or of its own subcontractors who infringes the above-mentioned rules. R&M may terminate the contract on justifiable grounds and without notice in the event of serious or repeated infringements in this respect.

14. Statutory minimum wage and social security contributions

The subcontractor hereby confirms that it pays its employees the legally or contractually specified minimum wage, and that it makes the social security contributions corresponding to both the country in which the contract was entered into and the country of deployment. Corresponding proofs of compliance with the above wage and social security obligations must be supplied to R&M on demand.

The subcontractor shall be liable to R&M, in the context of their internal relationship, for all and any infringement of wage-payment obligations and/or failure to make the corresponding statutory social security contributions.

R&M shall furthermore be entitled, in the event of contractual infringements of this type and after granting - without success - a period of grace for compliance, to terminate the contract on justifiable grounds and arrange for the remaining part of the services to be supplied by a third party at the subcontractor's expense.

15. R&M compliance principles applying to subcontractors and suppliers

The subcontractor undertakes to abide by the following R&M compliance principles applying to subcontractors and suppliers.

16. Other considerations

The subcontractor's claims against R&M arising from this contractual relationship shall only be pledged or assigned to third parties with R&M's consent. All and any right on the subcontractor's part with respect to the offsetting of counterclaims is hereby excluded, unless such claims are undisputed or enforceable by law.

17. Place of jurisdiction/applicable law

Any dispute, controversy, difference or claim arising out of or relating to this agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the Shanghai International Arbitration Centre (SHIAC) under the SHIAC Administered Arbitration Rules in force when the Notice of Arbitration is submitted.

The law of this arbitration clause shall be the law of People's Republic of China.

The seat of arbitration shall be Shanghai/People's Republic of China.

The number of arbitrators shall be three. The arbitration proceedings shall be conducted in English language.

18. Safeguard clause

If any provision of these contractual terms and conditions or of the contractual principles listed in clause 1 should be ineffective, this shall not affect the validity of the remaining provisions.

R&M Group compliance principles applying to subcontractors and suppliers

Compliance of subcontractors and suppliers

The R&M Group and all its affiliated companies have adopted compliance as part of their corporate strategy, along with its principles of integrity, observance of the law, and ethics. The management and employees of the R&M Group stand by these principles, which are binding on them.

The R&M Group likewise expects the same exemplary conduct from its subcontractors and suppliers, with strict observance of these principles regarding integrity, observance of the law, and ethics.

Employees' rights and working conditions

Suppliers and subcontractors are expected to respect the dignity, personal characteristics and health of each of their employees, and to ensure that their working conditions comply with all relevant safety standards. Employees are to be treated with respect and paid fair remuneration in accordance with legal minimum-wage requirements.

Undeclared work and illegal employment

Illegal employment and undeclared work will not be tolerated. Subcontractors and suppliers shall observe all relevant statutory provisions applying to the employment of personnel, and take appropriate action to combat illegal employment and undeclared work.

Corruption

The R&M Group does not tolerate corruption or bribery in any way or form. Appropriate action shall be taken even if incorrect conduct is merely suspected. Suppliers and subcontractors are expected to fight corruption within their own organisations, and to combat actively and consistently any unlawful or ethically dubious influence on decision-makers in the R&M Group, other companies and public entities.

Illegal collusion to prevent competition

Suppliers and subcontractors are expected to take an active stance against unauthorised cartels, and not to participate in illegal collusion designed to prevent competition.

Protection of the environment

Suppliers and subcontractors shall observe relevant environmental standards and legislation, and ensure that the environmental impact of their services is kept to an absolute minimum.

Compliance-related notifications

Suppliers and subcontractors of the R&M Group are asked to observe the rules established in the "*R&M Group's compliance principles applying to subcontractors and suppliers*", and to ensure that their own subcontractors and suppliers do likewise. Proof of having done so must be provided on request.

Subcontractors and suppliers undertake to notify the R&M Group of all and any compliance-related misconduct on the part of their employees and those of their own subcontractors and suppliers. Suspected cases must be pursued with rigour, and the R&M Group expects unconditional cooperation in the clarification of any incidents.

Consequences of infringement

If the subcontractor or supplier fails to fulfil, either at all or insufficiently, his commitment to cooperate in the clarification of such suspected cases of infringement, the R&M Group reserves the right, depending on the seriousness of the misconduct concerned, to cancel, without notice and on extraordinary grounds, all current contracts with the corresponding supplier or subcontractor, to terminate permanently the business relationship, and to assert claims for loss and damage.