EENergy

Subgrant Agreement

This project has received funding from the European Union's Single Market Programme (SMP) under grant agreement No. 101143477, and is being executed in direct cooperation with the Enterprise Europe Network

This Subgrant agreement is entered into by

The EENergy Consortium represented by the legal entity NorthDenmark EU-Office with registered office Niels Jernes Vej 10, 9000 Aalborg Denmark, Company registration number 36274433, legally represented by Jens Christian Winther, hereafter referred to as the "EENergy Consortium".

AND

The beneficiary identified in Annex C

Where the Beneficiary has been selected through the Open Call for Grants published by the EENergy Project to receive financial support, The EENergy Consortium and the Beneficiary have agreed to the following conditions:

Article 1 - Aim and purpose of the financial support

1.1 EENergy is a project co-funded by the European Commission under the Single Market Programme (SMP), with the aim to support SMEs to define an action plan to improve their energy efficiency performance, and to carry out this action plan. The purpose of EENergy is to support at least 1800 SMEs to identify their energy efficiency needs and define a corresponding action plan for solving these needs. A maximum of €9 Million will be provided to at least 900 SMEs across countries participating in the SMP, allowing them to increase their resilience to energy price fluctuations and energy supply chain disruptions, while also increasing their sustainability and reducing their environmental impact. This direct financial support, realised through investments in technological solutions, access to dedicated consultancy and upskilling expertise, aims to lead to an energy efficiency performance improvement of at least 5% within a designated scope for the participating SMEs.

1.2 The financial support will be offered in the form of a cost reimbursement grant, which the Beneficiary can use to purchase services/goods within the following categories:

- Investment: This category covers the implementation, acquisition, purchase, and/or installation of new software, hardware, equipment, or other technologies.
- Consultancy: This category covers advisory & consultancy services related to the identification and implementation of energy efficiency improvements, as well as energy audits
- Skills & Training: This category covers access to trainings, courses, classes, and programs for education and upskilling of employees in energy efficiency topics.

A mixture of the activities across the three types is possible with the aim of improving energy efficiency with at least 5%.

1.3. The Application Form and its Annexes submitted by the beneficiary and approved by the EENergy Consortium is an inseparable part of this Agreement and are binding for the Beneficiary.

Article 2 - Use of the Grant (financial support)

2.1. Financial support can be used solely for the activities described in the Approved Application Form and Action Plan submitted by the Beneficiary included in Annex A.

2.2 If the Beneficiary participates in another scheme (co)funded by EU funding or other public funding sources, the services/goods acquired must differ, as double funding of the same activities is strictly

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forbidden. Double funding is defined as the use of two separate public funding sources for the same purchase/cost.

Article 3 - Amount of the Grant (financial support)

3.1. The maximum amount of the Grant is 10.000 € (The exact amount is defined in the approved Application Form in Annex A). This amount is deemed to support the beneficiary in the execution of the Action Plan as mentioned in the Article 2 of this Agreement.

3.2. Actual cost, duly demonstrated, will be the object of reimbursement, within the limit of the amount requested and indicated in the Annex A. In case the requested amount is higher than the actual costs, it is the actual cost that is paid out. In cases where the actual cost is higher than the amount applied for, the beneficiary cannot get more paid out than the applied amount.

Article 4 – Duration of the Agreement

4.1. The Agreement shall enter into force on the date of its latest signature.

4.2. The implementation period of the activities starts on the day following the date the Agreement enters into force.

4.3 This Agreement expires when both parties have reached their scope, namely: Contracting Authority has paid the grant, and beneficiary has demonstrated the 5% consumption reduction OR has signed the declaration of honour as describe in Annex B – Reporting protocol.

Article 5 – Reporting and Eligible Costs

5.1. Following the completion of the activity implementation, each funded beneficiary must report the implementation and outcome of the activity according to the action plan in Annex A. This is a prerequisite for the payment of the grant.

5.2. In particular, activity-relevant data must be reported, which must credibly demonstrate the implementation of the action plan and the accomplishment of a minimum 5% increase in energy efficiency.

5.3 The Beneficiary shall submit their reporting according to the Reporting Protocol included in Annex B. The reporting and request for payment of the grant can be submitted, when the beneficiary has demonstrated that the 5% improvement in energy efficiency is reached or will be reached or signs the declaration of honour as described in Annex B - The Reporting Protocol.

5.4. The implementation period of the funded services/activities under the EENergy Grant begins the day after both parties have signed the EENergy Grant agreement and ends when the 5 % improvement in energy efficiency has been accomplished. In cases where the declaration of honour as described in Annex B – Reporting protocol has been utilized; this data can be later than the termination date of this agreement.

5.5. Eligible costs are solely actual costs that are

- identified in the Action Plan as part of the Application Form (Annex A)
- incurred during the duration of this agreement.
- reported according to the Reporting Protocol of Annex B
- not exceeding the amount foreseen in the Application Form in Annex A

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5.6 The beneficiary is strongly encouraged to cooperate with and provide data to the World Bank after the termination of this contract – Data will include information in addition to deliverables and reports already submitted during the contract including information on the use of resources, finances and other relevant data

Article 6 – Payment arrangements

6.1. Payments will be made to the bank account identified in the Financial Identification Form (Annex D)

6.2 The payment will be made via bank transfer no later than 30 days after the cut-off date chosen by the beneficiary, to report the completion of the implementation of the activities in Annex A as described in the Reporting Protocol of Annex B

6.3 The Beneficiary will no longer have the right to claim payment if they do not submit the report within the date of July 31st, 2025.

Article 7– Rights and obligations of the Beneficiary

7.1. The Beneficiary takes responsibility for all aspects concerning compliance with legal requirements and that all necessary approvals for the correct implementation of the action plan have been obtained.

7.2. The Beneficiary guarantees to abide by the contents of this contract and its annexes, the guide for applicants, the approved Application form, and its Annexes.

7.3. The Beneficiary must not receive or have received money from other public or EU-(co)funded initiatives for the action defined in Annex A ("double funding").

Article 8 – Checks and Audits

8.1. At any moment of implementation of the activities and up to five years after payment of the Grant, the beneficiary acknowledges that DG Grow, EISMEA and/or the EENergy Consortium or an organisation acting on behalf of one of these organisations has the right to carry out checks, reviews, and audits, to ascertain:

- the proper use of funds concerning the eligible activities.
- compliance with the obligations laid down in the Call Announcement.
- the truthfulness of the declarations and information produced by the Beneficiary.

For on-the-spot visits, the beneficiary must allow access to sites and premises to the auditor and must ensure that the information requested is available.

Information provided must be accurate, precise and complete and in the format requested, including electronic format

In case of the occurrence of one or more of the above-mentioned options or the impossibility of carrying out the checks, reviews, and audits for reasons attributable to the Beneficiary, the contribution may be reduced, rejected or revoked.

To this end, the beneficiary concerned must keep all relevant information relating to the action, for at least 5 years after final payment from EENergy. This timeframe can be prolonged until any ongoing checks, reviews, audits, investigations, litigation or other pursuits of claims have been concluded.

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8.2. The Beneficiary takes responsibility for respecting any national fiscal obligations that might derive from the income of the Grant.

Article 9 - State Aid "De minimis regime"

The Guidance Notice of the European Commission on the notion of "State aid" (Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (2016/C 262/01), available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0719%2805%29 clarifies that direct funding from the European Union, including from an Executive Agency, is not considered as a State Aid.

Consequently, the financial distribution to the Beneficiary as an integral part of the funding granted under the EENergy Project does not constitute "State aid" and is not to be taken into account for the calculation of the "de minimis" rule.

Article 10 Conflict of interest and ethics

10.1. The beneficiary confirms that there does not exist any conflict of interest as defined by Article 57 of Regulation 966/2012 and that they represent an impartial and objective entity and that no functions of any person under the employment of the beneficiary involved in this grant is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with members of the EENergy consortium.

10.2. The EENergy partners and the beneficiary take it upon themselves to take all necessary measures in order to avoid any conflict of interest and to keep each other informed on any circumstances that have generated or may generate such a conflict. Any precondition or suspicion of conflict of interest that arises during the implementation of the contract shall be immediately reported to the EENergy consortium.

10.3 The Beneficiary is obliged to comply with the EU principles of transparency, non-discrimination, equal treatment, sound financial management, and proportionality and competition rules.

10.4 If the Beneficiary is deemed in breach of any its obligations under this article, the financial support may be reduced or the right to financial support may be revoked.

Article 11 Irregularities, fraud and deviations

11.1. "Irregularity", according to Article 2, paragraph 36 of the Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, means any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union.

11.2. "Suspected fraud" is an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour. Fraud, as referred to in point (a) of Article 1(1) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests and represent any intentional act or omission relating to:

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- - the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities.
- - non-disclosure of information in violation of a specific obligation, with the same effect.
- - the misapplication of such funds for purposes other than those for which they were originally granted.

11.3 The beneficiary is obliged to inform the EENergy Consortium of any deviations from the expected implementation of the action described in Annex A as soon as possible.

11.4. In case of deviations, the EENergy Consortium may impose on the Beneficiary, in writing, any necessary measures for rectifying the deviation and fulfilling the action as foreseen in Annex A.

11.5. The EENergy may suspend, terminate the Agreement or diminish the fundable amount in the case the Beneficiary fails to take the necessary steps to implement the measures imposed or the measures implemented are deemed not to be fulfilling.

11.6. In case an irregularity or fraud is identified, the Beneficiary is obliged to reimburse the entire amount received to the EENergy Consortium (including charged interest, if any).

11.7. Any excess payment received by the EENergy Consortium due to clerical error is considered an unduly paid amount, and the Beneficiary must return the respective amounts within 30 (thirty) calendar days of becoming aware of this error or receiving a communication of the error from the EENergy Consortium.

11.8. The Beneficiary cannot hold the EENergy Consortium accountable for any damages or losses incurred in regard to or in connection with the fulfilment of the activities identified in Annex A

Article 12 – Promotion of the action

12.1. The beneficiary is encouraged to promote the action and its results and may use their status as an EENergy Beneficiary in both internal and external communication.

12.2 The EENergy Consortium will create and promote success stories for all Beneficiary with a short description of the action plan and expected results.

12.3 The Beneficiary is obliged to provide all needed information needed by the EENergy Consortium for creating the success stories – This includes, but is not limited to, a picture of the implementation site prior to and following the implementation of the action or in the case of purchase of dedicated consultancy and/or upskilling expertise a picture of the company site where the action will be implemented combined with a photo of the action being implemented – To be included as Annex F to this contract.

12.4. Any communication activity related to the action and any tools or major result funded by this grant must:

- acknowledge being the recipient of EU financial support by displaying the “Co-funded by the European Union”-logo. When displayed in association with another logo, the EU emblem must have appropriate prominence.

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- include the funding statement: “This [insert appropriate description, e.g. action, product, machine, service, result, etc.] was co-funded by the European Union.”

Article 13 - Correspondence

All formal communication in connection with this Agreement shall be directed to the EENergy Consortium via the official email eenergy@lic.lt. All formal communication from the EENergy Consortium to the Beneficiary will be directed to the email provided in the approved application in Annex A

Article 14 - Settlement of disputes

14.1 The beneficiary and EENergy shall endeavour to settle any disputes amicably.

14.2 All disputes arising out of or in connection with this agreement, which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties.

The award of the arbitration will be final and binding upon the Parties.

Article 15- Termination of the Agreement

15.1. The present Agreement may be terminated by written mutual agreement of the parties with 1-month formal notice.

15.2. Any breach of the provisions of this Agreement may result in the immediate termination of the Agreement by the EENergy Consortium and in a request to the beneficiary for repayment of unduly paid amounts.

15.3. The EENergy Consortium is entitled to terminate the Agreement, without any other formality, and/or to demand repayment of amounts already paid, if the EENergy Consortium finds

- an inconsistency between the reality and the declarations of the Beneficiary in the application form, regarding the financing of the operation from other EU funds
- that the amount awarded has been partially or entirely misapplied for purposes other than those agreed upon in the action plan in Annex A.
- that insolvency proceedings are instituted against the Beneficiary, provided that this appears to prevent or risk the implementation of the action,
- the Beneficiary is to be closed down
- that in case of legal succession, the legal successor does not comply with the eligibility criteria laid down for the Beneficiary
- The activities have not been or cannot be implemented in a manner that the EENergy Consortium considers appropriate with the goal of the application form/action plan; or
- The Beneficiary has failed to submit within the deadlines required proofs, or to provide necessary information within the set deadline and has not justified these delays; or
- An irregularity is discovered at Beneficiary level as described in Article 11 of this agreement; or

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- The Beneficiary has failed to meet any other conditions or requirements, stipulated in this Agreement.

15.5. This Agreement may be terminated, exclusively before the payment of the Grant, by request from the Beneficiary, in case there are any obstacles for the proper implementation of the activities described in the Application form or action plan of Annex A. In this case the Beneficiary must inform the EENergy Consortium immediately after the situation occurred as described in Article 11.

15.6. The EENergy Consortium has the right to terminate this Agreement, without any notice, if the European Commission and/or EISMEA withdraws the financing of the EENergy project. Under this circumstance, the Beneficiary is not entitled to or will be awarded any form of compensation.

Article 16- Personal Data Protection

16.1 Personal data involved in the EENergy project and under the Third-Party Service Agreement is processed by the EENergy Consortium partners and affiliated partners of the European Commission, adhering to Article 13 of the EU Regulation 2016/679 (GDPR).

16.2 The EENergy Consortium and the Beneficiary must process personal data under this Agreement in compliance with applicable EU and national law on data protection (including authorizations or notification requirements).

16.3 The EENergy Consortium and the Beneficiary may only ask for and grant access to data that is justified and necessary for implementing, managing and monitoring this Agreement.

Article 17 - Force Majeure

17.1 Force majeure means any unforeseeable and exceptional situation or event beyond the control of the contracting parties which prevents either party from fulfilling any of their obligations under this contract. Force Majeure cannot be claimed by any of the parties in situations where the lack of fulfilment of obligations were due to error or negligence on their part or on the part of a subcontractor that could have been avoided by the exercise of due diligence. Defects in tools or material or delays in making it available, labour disputes, strikes or financial problems cannot be invoked as force majeure unless they stem directly from a relevant case of force majeure.

17.2 If either party is faced with force majeure, it shall notify the other party without delay by written communication that requires acknowledgement of receipt or equivalent, stating the nature, likely duration and foreseeable effects on this contract.

17.3 Neither party shall be held in breach of its contractual obligations if it has been prevented from performing them by force majeure.

17.4 Both parties shall take all necessary steps to limit the effects of force majeure and any damage caused by this on this contract.

Article 18 - Final Provisions

18.1. Any modifications to this Agreement must be duly justified and shall be subject to approval by the EENergy Consortium and will be handled by a written Addendum to the Agreement. The Addendum shall enter into force on the day when it has been signed by both parties.

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18.2. The following annexes form an integral part of this Agreement:

Annex A: Approved Application Form and Action Plan

Annex B: Reporting Protocol

Annex C: Signature Page - Legal Representative of Beneficiary

Annex D: Financial Identification Form

Annex E: Signature Page EENergy Consortium

Annex F: Before Picture for investment actions

Annex G: Bank Statement confirming the Link to Beneficiary

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