

# General terms and conditions of contract ('local terms and conditions') for supplying services and work on behalf of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in *North Macedonia*

## **1. General provisions for supplying work and services**

### **1.1. Applicable law and place of jurisdiction**

The contract is subject to the laws of North Macedonia. The contractor's general terms and conditions of business or payment shall not apply. The place of jurisdiction is *Skopje*. GIZ may also institute proceedings against the contractor before the competent court for the domicile or seat of the contractor or its habitual residence.

### **1.2 Form**

The contract, any amendments or supplements and all material communications must be in text form, unless the parties have made different arrangements or a stricter format is prescribed by law.

### **1.3 Quality of work and services**

The work and services to be provided must comply with the recognised state of the art and the generally accepted rules of technology as well as the terms of reference. They must be of excellent quality.

### **1.4 Framework conditions and sustainability**

#### **1.4.1 Compliance with legal provisions**

When performing the work and services, the contractor must comply with all applicable legal provisions, ordinances and official regulations, including tax law provisions.

#### **1.4.2 Environmental and social standards and human rights**

When providing work and services, the contractor must comply with all applicable national and international environmental laws, minimise its greenhouse gas emissions and avoid all actions that could increase the vulnerability of the population and/or ecosystems.

Respect for human rights, the protection of children, the prevention of any and all forms of violence, abuse and exploitation, the avoidance of any discrimination on the basis of ethnic origin or background, religious beliefs, age, gender identity, sexual orientation, or any type of disability, as well as the promotion of gender equality for all genders in compliance with international standards and multilateral agreements (in particular international human rights conventions) must be ensured throughout the entire duration of the provision of work and services by the contractor.

The contractor shall take appropriate measures to prevent sexual harassment in the work environment and shall refrain from inciting hatred or violence as well as from any objectively unjustified discrimination against a specific individual or group of individuals.

#### **1.4.3 Labour standards**

In performing the contract, the contractor shall be obliged to comply with the fundamental principles and rights at work as stated in the Declaration of the International Labour

Organization (ILO) of 18 June 1998 (freedom of association, right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour and elimination of discrimination in respect of employment and occupation).

In particular, the contractor shall be obliged in the performance of the contract to comply with the regulations enacting the ILO core labour standards (conventions nos. 29, 87, 98, 100, 105, 111, 138 and 182) in the legislation of *North Macedonia*. If *North Macedonia* has not ratified one or more core labour standards or not enacted them in national legislation, the contractor shall be obliged to comply with the regulations in *North Macedonia* which pursue the same goal as the core labour standards.

#### **1.4.4 Avoidance of unintended negative consequences during the performance of the contract**

The contractor is obliged to provide its work and services in a manner designed to avoid or minimise unintended negative consequences with regard to the environment, climate protection, measures for adapting to climate change, human rights, fragile situations and situations marked by conflict and violence, and gender equality through the implementation of attributable mitigation measures. With regard to gender equality, the contractor also undertakes to use any potential for promoting gender equality.

#### **1.4.5 Consequences of violations**

If the contractor violates one of the obligations set out in Section 1.4 and GIZ terminates the contract as a result, then such termination shall be deemed to be the responsibility of the contractor.

### **1.5 Integrity**

#### **1.5.1 Conflicts of interest**

The contractor must not become involved in any conflict of interest relating to this contract. Conflicts of interest can arise in particular as a result of commercial interests, political allegiances or national ties, relationships with family members or friends and other ties and interests. The contractor shall undertake in particular

- (a) not to accept any additional remuneration from third parties in connection with the contract
- (b) not to accept during the term of the contract other orders where a conflict of interest is to be anticipated due to the nature of the order or due to the contractor's personal or financial connections with a third party unless prior consent has been given by GIZ
- (c) not to enter into any contracts related to this contract with natural or legal persons with whom it has personal or financial ties unless prior written consent has been given by GIZ.

The contractor shall undertake to disclose without delay to GIZ any circumstances that might represent a conflict of interest or which could lead to such. It must then consult GIZ on what

action is to be taken. If the parties are unable to reach an agreement in such a case and GIZ terminates the contract, then the contractor is responsible for the termination.

### 1.5.2 Integrity policy

The contractor must not, either directly or via a third party, offer or grant any gifts or advantages, or accept or request such gifts or advantages for itself or a third party, in connection with the contract award and/or implementation of the contract; this also includes facilitation payments.

The contractor must not agree any restraints on competition with one or more other companies.

Corruption in any form is prohibited. The contractor must establish appropriate and reasonable measures to prevent and fight corruption. The contractor must also report to GIZ's whistleblowing system without delay any confirmed cases and strong suspicions of corruption and/or property offences such as fraud, embezzlement and breach of trust in connection with the implementation of the contract. The whistleblower system can be contacted via the [whistleblower portal](#), GIZ's Integrity Advisor ([integrity-mailbox@giz.de](mailto:integrity-mailbox@giz.de)) or the external ombudsman ([ombudsman@ra-js-de](mailto:ombudsman@ra-js-de)) => [www.giz.de/en](http://www.giz.de/en) • [About GIZ](#) • [Compliance](#) • [Whistleblowing](#).

### 1.5.3 Consequences of violations

If the contractor infringes one of the prohibitions or fails to comply with one of the obligations stated in Section 1.5 and GIZ terminates the contract as a result, then such termination shall be deemed to be the responsibility of the contractor. Should the contractor fail to meet an obligation under Section 1.5, GIZ shall be entitled to exclude the contractor from future competitive tenders for a limited period and to a reasonable extent.

### 1.6 Confidentiality

Any and all data relating to the contract as well as any other information, such as submitted documents and exchanged information, of which the contractor and its employees become aware in the course of performing the contract, must be treated as confidential during and beyond the term of the contract. This provision applies even if such documentation and information has not been explicitly classified as secret or confidential.

The contractor must not make documents and/or work results of any kind, including in particular reports, accessible to third parties without obtaining prior written approval from GIZ. For the purposes of this clause, the term 'third parties' includes the ultimate commissioning party/client. The contractor shall not be permitted to make use of any such data and information for the contractor's own purposes.

### 1.7 Requirement for GIZ's approval for publications

Any publications regarding the activities of the contractor within the scope of the project require prior written approval from GIZ. A brief description of the contract and the scope of activities for PR work on the part of the contractor shall not require the approval of GIZ. For the purposes of this provision, a statement noting the subject matter of the contract and the key results constitutes a brief description. The contractor must always express in an appropriate way that its activities are performed on behalf of GIZ, and must also name the ultimate commissioning party/client and any further financing parties.

### 1.8 Use of GIZ's corporate design

When designing materials relating to the contract, which are intended for use with third parties (e.g. business cards, letterhead, emails, publications, presentations), the GIZ specifications must be followed. The design must also be agreed with GIZ and the responsible partner institution.

### 1.9 Rights of use/documentation relating to work results

#### 1.9.1 Basic principle

Unless otherwise agreed in the contract documents, the contractor shall assign to GIZ all assignable ownership and property rights to its work results. If the work results are protected by copyright or other non-assignable property rights, the contractor shall grant GIZ an exclusive and irrevocable right that is unlimited with respect to time, location and content to use all work results, including commercial use outside the measure. The originator expressly and additionally waives the right to be named as such.

#### 1.9.2 Work results

Work results for the purposes of Section 1.9.1. are all material and immaterial outputs that are created or procured in performance of the contract, especially studies, drafts, documentation, articles, information, illustrations, drawings, calculations, plans, photos, materials, film negatives, image files and other visual presentations. Work results shall also include any computer programs which the contractor produces, modifies, procures or makes available in the performance of the contract.

#### 1.9.3 Scope of rights of use

GIZ's rights of use shall include the right to use the work results and existing work products without limitations with respect to time, content and location. GIZ is further entitled to assign to third parties the rights of use granted or to grant third parties simple rights of use.

#### 1.9.4 Freedom from third-party rights

The contractor warrants that the work results are free from any copyright or other third-party rights that would prejudice the use of the work results pursuant to Section 1.9.3. The contractor shall indemnify GIZ against all claims of third parties arising from the granting or exercise of the rights of use pursuant to Section 3.1 and shall reimburse GIZ for all costs arising in connection with a corresponding legal defence.

#### 1.9.5 Compensation

The contractually agreed remuneration also includes the granting of rights of use.

#### 1.10 Data protection

Within the framework of the contract, GIZ processes personal data only in accordance with the EU General Data Protection Regulation (EU GDPR) and other applicable data protection regulations. GIZ stores and processes personal data only to the extent required in connection with the contract. The contractor shall have the right to view, erase or rectify the personal data and shall be entitled to contact GIZ ([datenschutzbeauftragter@giz.de](mailto:datenschutzbeauftragter@giz.de)) or the responsible public authority for the purpose of enforcing these rights.

The contractor shall comply with the requirements of applicable data protection regulations and take measures to ensure such compliance by its employees.

The contractor warrants that any data transmitted to GIZ have been processed in accordance with the applicable data protection provisions and are exempt from any third-party rights that would prejudice the use of this data within the purpose of this contract. The contractor shall indemnify GIZ against all claims arising from the violation of data protection regulations and shall reimburse GIZ for all costs incurred in connection with its corresponding legal defence or the imposition of government sanctions.

Should applicable data protection law contain specific principles that must be respected when providing work and services (e.g. a data protection by design or by default approach in order to ensure the data protection-friendly implementation of technical requirements), the contractor shall prioritise the practical implementation of such principles.

Should the contractor process personal data for GIZ as set out in Article 28 GDPR, this shall take place on the basis of a relevant agreement.

### **1.11 Prevention of the financing of terrorism and compliance with embargoes**

The contractor shall not make any funds or other economic resources available, directly or indirectly, to third parties that are included on a sanctions list issued by the United Nations and/or the EU.

When implementing the contract, the contractor may enter into and maintain business relations only with third parties that are reliable and to whom no statutory ban on entering into business applies.

When implementing the contract, the contractor shall also comply with embargoes and other trade restrictions issued by the United Nations, the EU or the Federal Republic of Germany.

The contractor must notify GIZ without delay and on its own initiative if the contractor, a member of its official managing body and/or other administrative bodies, its shareholders and/or staff is included on a sanctions list issued by the United Nations or the EU. This provision also applies if the contractor becomes aware of an event that leads to such a listing.

The contractor shall notify GIZ without delay and on its own initiative of any violation of the provisions set out in this Section 1.11. This does not affect GIZ's rights under Sections 5 and 6 of these Terms and Conditions.

### **1.12 Compliance with project agreements**

The contractor is obliged to comply with the agreements under international law reached between the Federal Republic of Germany and the country of assignment and, where applicable, with the project implementation agreement concluded between the project executing agency and GIZ.

## **2. Provision of work and services by the contractor**

### **2.1 Assignment of experts**

The contractor shall ensure that it and any experts it assigns possess the appropriate professional and personal qualifications needed to complete the stipulated tasks successfully.

The contractor shall ensure that the experts assigned comply with the relevant regulations set out in the contract.

### **2.2 Protective measures, health requirements and necessary insurance policies**

The contractor shall be responsible for ensuring that it and the experts it assigns meet the health requirements for the country of assignment. The contractor shall in particular be obliged to arrange the necessary vaccinations. The contractor must ensure adequate insurance cover (in particular health, repatriation and accident insurance). The contractor must provide evidence of compliance with this provision on request by GIZ.

GIZ will accept no liability for property damage, sickness, personal injury or death in respect of the contractor and the personnel assigned by the contractor to the project, or for the consequences thereof.

### **2.3 Cooperation with other institutions**

The contractor and the assigned experts are obliged to cooperate with the German mission abroad, specialists working in the country of assignment and the representatives of the Federal Republic of Germany working in the country of assignment, and also, where relevant for performance, with representatives and experts of multilateral or other organisations.

### **2.4. Force majeure**

Force majeure is an unavoidable event (e.g. natural disaster, outbreak of a disease or epidemic, serious unrest, war or terrorism) that no human foresight or experience could anticipate, that cannot be evaded or overcome applying reasonable efforts and utmost care and that prevents or impedes one party to the contract from fulfilling their contractual obligations. If an event originates from the sphere of responsibility of one of the parties to the contract, this shall not constitute force majeure.

If force majeure arises, the contractual obligations, insofar as they are affected by the event in question, shall be suspended for as long as it remains impossible to render the services because of this situation, provided that a party to the contract notifies the other party to the contract about the force majeure event without undue delay. In this case, the contractor is obliged to take all measures to keep its expenses caused by the force majeure event as low as possible and to document them.

If the provision of services becomes permanently impossible due to the force majeure event or if the force majeure event persists for longer than three months, both parties to the contract are entitled to terminate the contract without further notice. This shall not affect GIZ's rights of termination as set out in Section 10.

In the event of interruption or termination based on force majeure, the services rendered and all proven, necessary and unavoidable expenses of the contractor shall be invoiced according to the contract prices. GIZ may refuse to reimburse expenses in accordance with this provision if the contractor does not provide GIZ with sufficient evidence or documentation of its expenses and the measures taken to reduce them, or the contractor does not do so promptly without having good reason for late submission of the evidence or documentation. Expenses shall only be reimbursed for a period of up to two months, which commences on the first day of the interruption.

If, due to force majeure and with GIZ's consent, the activity is continued at a location other than the place of assignment, the

contractually agreed fee shall continue to be paid. The other remuneration items will continue to be paid in the contractually agreed amount for a period of up to three months unless they are or can be saved, or the resources are used elsewhere.

## **2.5 Information and reporting obligations**

### **2.5.1 Reporting obligations**

The contractor shall punctually submit to GIZ the type of reports specified in the contract at the intervals specified, in the agreed form and language, and in the format stipulated. Unless otherwise agreed in the contract, the contractor shall prepare the reports in English and forward them to GIZ in electronic form (both in a format that is MS Word compatible and as a pdf file).

The costs of reports must be calculated as part of the billing rates for experts and will not be remunerated separately

### **2.5.2 Obligation of the contractor to report on the status of the contract**

GIZ may at any time review the status and results of the performance of the contract, including the project accounts and any project-related special accounts. The contractor must keep the necessary records available and provide the necessary information for this purpose. At the request of GIZ the contractor shall also provide information to other institutions or persons and organisations commissioned by GIZ as well as making audits possible, and agreeing to cooperate appropriately in any such audits.

### **2.7 Keeping of contract-related records**

The contractor must keep contract-related records and work results, including financial records, for ten years after acceptance of the final report or, as the case may be, of the work, and must provide them for inspection at GIZ's request.

### **2.8 Procurement of materials and equipment**

In the case of the contractually agreed procurement of materials and equipment, confirmation of handover to the recipient designated in the contract must be submitted in addition to the vouchers required pursuant to Section 3.2.1.

Procurement orders may only be placed with qualified and competent providers on cost-efficient terms and on the basis of competition. The contractor must ensure transparency, equality of treatment and suitability of tenderers. The contractor must comply with the GIZ [rules on inventoring and handing over equipment and materials](http://www.giz.de/en->Doing%20business%20with%20GIZ->Procurement%20and%20financing-GIZ%20as%20a%20public%20contracting%20authority->Contracts%20for%20services%20and%20construction%20as%20well%20as%20development%20partnerships:Contract%20management,%20invoicing%20and%20accounting%20procedures%20and%20on%20this%20page%20under%20Annexes:Procurement%20of%20materials%20and%20equipment): [www.giz.de/en -> Doing business with GIZ -> Procurement and financing – GIZ as a public contracting authority -> Contracts for services and construction as well as development partnerships: Contract management, invoicing and accounting procedures and on this page under Annexes: Procurement of materials and equipment](http://www.giz.de/en->Doing%20business%20with%20GIZ->Procurement%20and%20financing-GIZ%20as%20a%20public%20contracting%20authority->Contracts%20for%20services%20and%20construction%20as%20well%20as%20development%20partnerships:Contract%20management,%20invoicing%20and%20accounting%20procedures%20and%20on%20this%20page%20under%20Annexes:Procurement%20of%20materials%20and%20equipment).

## **3. Remuneration and invoicing**

### **3.1 Principle of remuneration, items of remuneration**

The price specified in the contract is a maximum amount; any costs in excess of this shall not be reimbursed.

In addition to the contractually agreed price the contractor may invoice value-added tax (VAT) at the statutory rate.

Remuneration is paid for the contractually agreed items of remuneration; the amounts agreed are the maximum amounts in each case.

Rebates, discounts, refunds, tax concessions or refunds, and all other price reductions obtained by the contractor when providing work and services at costs reimbursed by GIZ must be taken and passed on to GIZ or deducted from the invoice.

#### **3.1.1. Fee**

The fee is based on expert-days as a unit of calculation. An expert-day is a full day on which the contractor or one or more of the experts it assigns provides work and services for GIZ. Days used exclusively for travel are not considered to be expert-days.

If contractually agreed, expert-hours may also be used to calculate fees in individual cases. No other units may be invoiced.

The contractor's fee or fee of the experts assigned by it covers all personnel costs including ancillary personnel costs, costs of communication, reporting and all overheads, profit, interest, risk, etc.

#### **3.1.2 Travel expenses**

##### **3.1.2.1 Air travel expenses or other transport costs**

Air travel expenses and other transport costs are paid to the extent agreed in the contract, generally as a lump sum and in exceptional cases upon presentation of evidence.

##### **3.1.2.2 Per diem allowance**

The per diem covers the additional cost of subsistence to the contractor or the contractor's experts during an assignment away from their regular domicile and/or seat of business for a period as of one day of official travel.

##### **3.1.2.3 Overnight accommodation allowance**

The overnight accommodation allowance covers the cost to the contractor or the contractor's experts of accommodation on an assignment away from their regular domicile and/or seat of business, if an overnight stay is necessary.

Overnight accommodation allowances are only paid if the contract necessitates an overnight stay. This should be noted separately on the time record.

##### **3.1.2.4 Other travel expenses**

Other contract-related travel expenses are reimbursed up to the contractually stipulated number and quantity, generally as a lump sum and in exceptional cases upon presentation of evidence.

#### **3.1.3 Other costs**

##### **3.1.3.1 Subcontracts**

For subcontracts the actual costs incurred shall be reimbursed within the contractually agreed scope on production of proof.

##### **3.1.3.2 Flexible remuneration item**

Where a flexible remuneration item is contractually agreed, the contractor shall be permitted to exceed the contractually agreed quantities up to the amount of the flexible remuneration item, taking into account the contractually agreed individual rates and bases for invoicing. The flexible remuneration item covers costs only for items listed where these are contractually agreed.



Use of the flexible remuneration item must be approved by GIZ in writing before the costs in question are incurred.

### **3.2 Terms of payment, invoicing for contracts for services**

#### **3.2.1 Presentation of invoices**

All payments will be made only on presentation of relevant evidence. All the necessary vouchers must be attached in the original.

#### **3.2.2 Time records**

The invoicing of the fee, costs related to the contract in the country of assignment and any per diem or overnight accommodation allowances related to the contract that may need to be paid must be based on a time record in which the contractor enters the number of expert-days required.

#### **3.2.3. Final invoice, final payment**

The contractor shall be obliged to submit the final invoice without delay, and in any event not later than six weeks after the contractual end of the period of assignment. The final invoice may be submitted before the end of the contractually agreed term once the work or services have been completed. The invoice must contain all the contractor's claims for remuneration, be verifiable and contain all the necessary information (with all the necessary receipts/vouchers). Final payment is made on submission of the final invoice in due form and performance by the contractor of all contractual obligations.

Any amounts overpaid by GIZ must be repaid to GIZ by the contractor without delay after invoicing.

If an advance payment was made and the contractor does not submit the final invoice within 15 days despite a reminder by GIZ, the contractor shall be obliged to repay the advance payment.

### **3.3 Terms of payment, invoicing for contracts for works**

Contracts for works shall be subject to the conditions of Section 3.2 with the following provisions:

#### **3.3.1 Claim for payment**

The final invoice must be submitted without delay and in any event not later than six weeks after acceptance. It must contain all the contractor's claims, be verifiable and contain all the necessary information (with all the necessary receipts/vouchers).

Payment of remuneration is due after acceptance of the work and services and after receipt of a final invoice containing all the required details (together with all necessary receipts/vouchers). Payment shall be made by GIZ no later than 30 days after justified claims fall due.

#### **3.3.2 Security deposit**

If payments on account have been agreed in the contract, 10% of the amounts invoiced in accordance with the contract (including VAT) shall be retained and initially not disbursed. This amount can be released against the provision of a security. The amount retained shall be disbursed following acceptance of the work as a whole.

#### **3.3.3 Acceptance**

Acceptance shall be effected in writing.

GIZ shall be entitled to warranty claims for any defects which were evident on acceptance even if it did not reserve the right to such claims at that time.

## **4. Contract supplements**

The parties to the contract may agree on amendments to the contract relating to the scope of work and services, the performance period and the agreed remuneration.

All amendments that entail changes in the specification of inputs, as well as the replacement of experts and other major modifications to the contract, shall be agreed by the parties in the form of written contract supplements. Changes in the specification of inputs concern, for example, changes in the performance period, the expansion of the scope of work and services, changes to personnel requirements and/or changes in remuneration.

Cost-neutral extensions of the performance period without changes in the specification of inputs do not call for a written contract supplement and can be agreed in text form.

## **5. Supplementary performance, interruption and termination**

### **5.1 Supplementary performance**

If the contractor's performance is defective, GIZ may require supplementary performance; however, requiring supplementary performance is not a prerequisite for asserting other rights.

### **5.1 Interruption**

GIZ may at any time order a complete or partial interruption of the activity, for political reasons for instance. In this case, the contractor must take all necessary measures to keep expenses as low as possible.

If the interruption lasts for more than three months, the contractor may terminate the contract.

In the event of interruption or termination, the services rendered up to that point and all proven necessary expenses incurred by the contractor up to the end of the interruption shall be invoiced at the contract prices. No further claims are permissible.

### **5.3 Termination**

GIZ may terminate the contract at any time, without setting any further deadlines or making a prior request for deficiencies to be corrected, either wholly or in respect of individual parts of the work and services or with regard to individual experts.

#### **5.3.1 Grounds which are not the fault of the contractor**

If GIZ terminates the contract for a reason which is not the fault of the contractor, the contractor shall be entitled to demand the agreed remuneration. However, the contractor must allow deduction of expenses which are or could be saved, as well as of earnings from the use elsewhere of the resources in question, or of potential earnings foregone wilfully. Fees, salaries and ancillary salary costs are deemed to be saveable if they relate to periods more than 60 days after receipt of notice of termination.

The contractor bears the burden of proof in the case of exceptions.

### **5.3.2 Grounds which are the fault of the contractor**

Should GIZ terminate the contract for a reason which is the fault of the contractor, the only remuneration that shall be paid is for work and services already performed, provided that GIZ has a use for them, either at contract prices or on a pro rata basis taking into account the contract prices and the work and services provided in comparison to what would have been required for complete performance of the contract. Any work and services that cannot be used shall be returned to the contractor at the contractor's expense. If the contract performance comprises the provision of services, any services rendered in accordance with the contract up to the date of termination shall be deemed to have been usable. Under no circumstances shall entitlement exceed the total contract value.

## **6. Liability, contractual penalties and delays**

### **6.1 Liability**

The contractor is liable pursuant to the statutory provisions. GIZ shall also be entitled to claim for loss or damage suffered by the recipient of the work and services as a result of the contractor's failure to meet its contractual obligations.

### **6.2 Contractual penalties**

In the event of violations of an obligation under Sections 1.4.2 (Environmental and social standards, human rights), 1.4.3 (Labour standards) and 1.5 (Integrity), the contractor shall be obliged to pay a contractual penalty of EUR 25,000 for each violation. If the pecuniary advantage given is greater than EUR 25,000, then the contractor shall owe a contractual penalty equal to the amount of the pecuniary advantage. This is without prejudice to any further claims for damages by GIZ. However, the contractual penalty will be deducted from any such further claims.

### **6.3 Delays in the progress of work and services**

If the contractor fails to meet the agreed dates and deadlines for an agreed work and does not deliver the work within the period of grace set by GIZ, then GIZ shall be entitled, as soon as the period of grace has expired, to demand a contractual penalty of 0.5% of the remuneration for each week or part thereof after expiration of the set period of grace; however, the contractual penalty shall not exceed a total of 8% of the remuneration.

## **7. Final provisions**

### **7.1 Prohibition of assignment by the contractor**

The assignment of claims arising from the contract is excluded, unless GIZ has agreed to such assignment in writing.

### **7.2 Partial invalidity**

Should individual provisions of this contract be or become invalid or unenforceable, the validity of all other provisions under the contract shall remain unaffected. The invalid or unenforceable provision is to be replaced by a valid and enforceable rule, the effects of which most closely replicate the economic objective which was pursued by the contractual parties with the invalid or unenforceable provision. This shall apply accordingly if it emerges that the contract has gaps or omissions.