

Special Contractual Terms Under the Federal Collective Bargaining Compliance Act

1 Undertaking to Comply with Collective Bargaining Agreements Pursuant to Section 3 of the Federal Collective Bargaining Compliance Act

- (1) The contractor undertakes to grant the employees engaged in the performance of the contract, for the duration of their work in execution of the public contract or concession, at least the working conditions established by the relevant statutory regulation pursuant to Section 5 of the Federal Collective Bargaining Compliance Act (commitment to collective bargaining agreements).
- (2) The commitment to comply with collective bargaining agreements under paragraph 1 does not impose any obligation on the contractor to the extent and for as long as it does not fall within the scope of application of a statutory regulation under Section 5 of the Federal Act on Compliance with Collective Bargaining Agreements.

2 Documentation Requirements and Monitoring

- (1) The contractor undertakes to document, by means of appropriate records, that it complies with its commitment to comply with collective bargaining agreements under item 1. The documentation requirement does not apply if the contractor has been certified pursuant to § 10(1), sentence 1 of the Federal Collective Bargaining Compliance Act.
- (2) Compliance with the special contractual terms set forth in this Annex is monitored by the Federal Collective Bargaining Compliance Inspection Authority (§ 8 of the Federal Collective Bargaining Compliance Act).
- (3) In the event of an inspection by the Federal Collective Bargaining Compliance Inspection Office, the contractor undertakes to
 - allow the inspection,
 - provide the information relevant to the inspection,
 - submit the evidence to be prepared pursuant to paragraph 2 or a certificate pursuant to Section 10(1), sentence 1 of the Federal Collective Bargaining Compliance Act, as well as other documents upon request by the Inspection Office,
 - to enable data processing via the German Pension Insurance,
 - to allow the Federal Wage Compliance Inspection Office to enter the premises and business premises upon request, and
 - to comply with data protection requirements for the processing of personal data of the employees deployed for inspection purposes, in particular by informing and educating them about the possibility of inspections.
- (4) The Contractor shall bear any costs incurred by it as a result of an inspection.

3 Use of Subcontractors and Labor Supply Companies

- (1) The Contractor undertakes to require of subcontractors and temporary staffing agencies commissioned by the Contractor or by subcontractors, and to ensure through appropriate

measures, that the subcontractors and temporary staffing agencies commissioned by the Contractor or by subcontractors fulfill their obligations under § 4, paragraphs 1 and 3, of the Federal Collective Bargaining Compliance Act.

- (2) The obligation under paragraph 1 shall also apply even if no statutory regulation under Section 5 of the Federal Act on Compliance with Collective Bargaining Agreements is applicable to the Contractor itself. With regard to subcontractors and temporary staffing agencies, paragraph 2 of Section 1 shall apply mutatis mutandis.
- (3) The Contractor undertakes to agree with the subcontractors and labor suppliers to whom it has subcontracted the obligations to cooperate set forth in Section 2, Paragraph 3, and the provision regarding cost allocation under Section 2, Paragraph 4, and to ensure that a corresponding agreement is reached between the further subcontractors or labor suppliers engaged by the subcontractors or labor suppliers.

4 Contractual Penalty and Extraordinary Termination for Violations of Collective Bargaining Compliance Obligations

- (1) The Contractor undertakes to comply with the obligations arising from this contract as well as the relevant statutory provisions regarding collective bargaining compliance and minimum working conditions.
- (2) If the competent federal collective bargaining compliance inspection authority determines a violation by the Contractor pursuant to § 13 of the Federal Collective Bargaining Compliance Act, the contractual penalty shall be deemed forfeited. A separate review of the facts by the Client is not required in this regard.
- (3) The contractual penalty for each established violation shall amount to 1% of the actual contract value. The actual contract value shall be the total net contract volume, including any supplements.
- (4) In the event of multiple violations, the total forfeited contractual penalty shall not exceed 10% of the actual contract value.
- (5) The Client is entitled to withhold the contractual penalty from any amounts due to the Contractor. The assertion of further statutory claims, in particular claims for damages, remains unaffected; the contractual penalty shall be offset against any damages awarded.
- (6) If the Federal Compliance with Collective Agreements Inspection Office, pursuant to § 13 of the Federal Compliance with Collective Agreements Act, determines a violation within the meaning of this provision, the Client is entitled to terminate the contract extraordinarily for good cause without notice.
- (7) Good cause within the meaning of paragraph 6 shall be deemed to exist, in particular, if
 - the contractor violates minimum working conditions to a significant extent,
 - violations occur systematically or repeatedly, or
 - the contractor fails to fulfill its obligations to cooperate, provide information, or furnish evidence despite the setting of a deadline.
- (8) Further statutory rights of termination remain unaffected.