

MANUAL

FOR CONSTRUCTION CONTRACTORS

AUGUST 2024

W I D E N



ZAB WIDEN SIA provides legal assistance to clients and construction contractors on various topics related to construction. Over the course of its work, ZAB WIDEN SIA has been identifying the most common problems and issues that construction contractors have to face when performing their construction contracts. Our manual can assist you in everyday work, whenever you are planning to conclude a new construction contract or looking to find answers to your questions about an existing one.

For the purposes of this manual, the term ‘construction work’ (or ‘construction’) is used as it is defined in the Construction Law. According to Section 1(2) of the Construction Law, construction work is a part of the construction process that is carried out on a construction site or in a building in order to create a structure, install, rebuild, restore, renovate, mothball, demolish a pre-made structure or its part, or to install a utility line.

The opinions of ZAB WIDEN SIA expressed in this manual are not an official and binding interpretation of the law and may become outdated if the corresponding laws and regulations or case law change.

1. GENERAL INFORMATION

1.1. What is a construction contract and what is its form?

A construction contract is a work-performance contract, as defined in the Civil Law of the Republic of Latvia ('Civil Law'). Thus, the provisions of the Civil Law apply to construction contracts to the extent that other laws and regulations do not require otherwise. The Civil Law itself does not require a written form for work-performance contracts, but for construction contracts it is required by Section 1(18) of the Construction Law.

This means that a construction contract is a written contract (either in printed form and signed by hand, or digital with secure electronic signatures) between the contractor and the initiator of the construction, or a different party, such as the main building contractor or other contractor performing certain work.

1.2. When is it allowed to begin the construction work?

Construction work may begin once the construction authority issues a mark certifying the fulfilment of the conditions for beginning construction, provided that performing the construction work requires a certification card or an explanatory note, or a mark certifying the fulfilment of the conditions for beginning the design and construction work, if the construction requires a building permit and it has become final (except for the case referred to in Section 15(7) of the Construction Law)¹.

¹ See Section 17(1) of the Construction Law.

1. GENERAL INFORMATION

1.3. What is unauthorised construction?

The types of unauthorised construction are specified in Section 25 of the Construction Law. These are:

- ✓ construction performed without obtaining the documentation and approvals required by law;
- ✓ construction performed with deviations from the construction design, if these changes were not approved in accordance with the legal procedure, and deviations have been found from the explanatory note, certification card, or construction design that requires a building permit;
- ✓ use of a structure or its part in a manner inconsistent with its use specified in the design.

1.4. When must a contractor register in the Register of Construction Merchants?

The registration must happen before beginning to provide construction services. If a planned service does not match any of the types of construction services defined in the Construction Law, registration is not required.

If a legal entity provides construction services without registration in the Register of Construction Merchants, it becomes subject to a fine of up to 1000 fine units or up to EUR 5000.²

² See Section 30 of the Construction Law, Section 16(2) of the Law on Administrative Liability, in accordance with which 1 fine unit is EUR 5 since August 12th 2024.

1. GENERAL INFORMATION

1.5. How can I register in the Register of Construction Merchants?

Registration can be done electronically on the website of the Building Information System, authenticating at the address <https://bis.gov.lv/> as a legal entity.

Note! In order to be registered, a company must have concluded an employment contract (not a work-performance or other type of contract) with a construction specialist prior to submitting its application for registration, and sent a notification to that effect to the State Revenue Service.

1.6. What are the costs associated with the Register of Construction Merchants?

The state fee for registration in the Register of Construction Merchants is EUR 70.

The state fee for the annual extension of the registration information depends on the net turnover of the construction merchant:

- 1) EUR 100 if the turnover is EUR 0 to 50,000;
- 2) EUR 500 if the turnover is EUR 50,001 to 500,000;
- 3) EUR 1000 if the turnover is EUR 500,001 to 1,000,000;
- 4) EUR 2000 if the turnover is EUR 1,000,001 to 5,000,000;
- 5) EUR 3000 if the turnover is EUR 5,000,001 to 10,000,000;
- 6) EUR 5000 if the turnover is over EUR 10,000,000.

If the construction merchant also provides services outside the construction sector, the state fee for the annual extension of the registration information may only be charged based on the net turnover generated in the construction sector. This can be done, provided the construction merchant encloses with its annual information application a copy of the profit and loss statement from its annual accounts or consolidated annual accounts that specifies the income generated from the construction services provided, listed separately as a profit and loss statement item.³

³See Section 27.3 of Cabinet Regulation No. 116 'Regulations on the registration of construction merchants' of 25 February 2014.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.1. What annexes must be provided with a construction contract?

It is important to enclose the annexes that are critical to the transaction in question with any contract. There is no need to add countless annexes to contracts with a subcontractor if the subcontractor will not need them when performing the part of the construction subcontracted to it. The most important annexes to subcontractor contracts are:

- 1) Documentation for conducting construction: the construction design. It is not always necessary to include the full construction design in every subcontractor contract. If the subcontractor is, for example, only building the AVK-A (HVAC) section of the design, then adding a UK (indoor plumbing) or LKT (rainwater drainage) is probably not useful. If there is a risk that different sections of the construction design may contradict each other or, for example, the AR (architecture) section has conditions that are required for the construction of indoor utilities, then it is recommended to enclose all the relevant sections of the construction design or its full version with the contract;
- 2) Cost estimates: laws and regulations do not require the inclusion of cost estimates in subcontractor contracts. However, it is always advisable to provide detailed construction cost estimates with the contract;

- 3) Work schedule: this document is essential if, in addition to the deadline for completing the construction, it is important for the construction procurer that milestone deadlines, in relation to which the contract may impose penalties, are also met;
- 4) Work performance reports: in order for subcontractor period-based work performance reports to be uniform in their format and acceptable to the construction procurer, work performance report templates may be included in the contract;
- 5) Construction site procedure regulations: this document regulates the internal procedures in place at the construction site and may also specify penalties for breaching these rules;
- 6) Other documents from the construction procurer's own contract with the construction initiator or other contractor that are relevant to the specific construction assigned to the subcontractor.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.2. What are the conditions regarding the contract price that are critical to include in a subcontractor contract?

In addition to the costs included in the cost estimate, it is important to define in the contract the work included in the contract price and the costs that arise, not based on the estimates, but that will be incurred and have to be covered by the subcontractor during the contract. For example, increases in the cost of work during winter, various ancillary work, security costs, costs of obtaining expert reports, waste removal and collection costs.

It is also important to define the circumstances that may or may not entitle the subcontractor to increase the contract price, such as changes in the rates of taxes or duties.

2.3. What are the conditions regarding the scope of work to be performed that it is critical to include in a subcontractor contract?

One of the most common types of disputes between the client and the subcontractor are disputes over the scope of the work. So it is particularly important to distinguish the priority of the documents in the contract. For example, if there is a discrepancy between the cost estimate and the construction design, whether the construction design or the cost estimate take precedence in terms of determining the scope of the work. At the same time, it is essential that the contract includes the subcontractor's certification on determining the scope of the work and the steps taken by the subcontractor in determining the scope of the work, including conducting a detailed study of the construction design, and the actual situation on-site.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.4. What are the conditions regarding the work deadline that it is critical to include in a subcontractor contract?

If it is important for the client that the subcontractor meets not just the construction start and end deadlines but also milestone deadlines, then the contract (or a work performance schedule as a separate document) must set these milestone deadlines that the subcontractor must meet. To avoid disputes, the contract must specify the exact cases in which the subcontractor is entitled to claim an extension of the final or milestone deadlines for the work.

2.5. What conditions are important as part of accepting the work performed during a month, or any other period?

- 1) If the payment for the construction work is to be made in instalments rather than a lump sum, the contract must specify the period that the corresponding instalment covers, e.g., 14 days, one month, or any other period. It is important to note that the Value Added Tax Law sets a maximum deadline for the acceptance of construction services that are subject to the issuing of a tax invoice. The construction work must be handed over and accepted at least once every 12 months⁴.
- 2) The construction procurer may stipulate in the contract that construction work can only be accepted from the subcontractor once it is accepted by the construction procurer's client, as well as by the site construction supervisor, if the project in question is subject to construction supervision. This can prevent a situation in which the construction procurer must pay the subcontractor for work that the contractor itself has not handed over to the construction initiator or to its immediate client, i.e., another contractor.
- 3) It is recommended for the construction procurer to avoid including clauses in the contract that prescribe the automatic acceptance of work performed during a certain period within a certain number of days after the work performance report is received from the subcontractor. Experience shows that the deadline for reviewing these reports is often missed, and in such cases the report is deemed to have been accepted by default, thereby triggering the payment obligation.
- 4) It is important to stipulate in the contract that work performed during a certain period must be handed over along with the handover of as-built documentation for the construction. The as-built documentation specified in the applicable laws and regulations is equally important to the construction work performed, as without it, the site cannot be commissioned

⁴ See Section 32(5) of the Value Added Tax Law.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.6. How to structure the making of advance payments to the subcontractor in the contract?

First, the parties must agree on whether security needs to be provided for the advance payment. An advance payment may be secured with a bank guarantee or an insurance policy submitted by the subcontractor. If the subcontractor fails to fulfil its contractual duties, the construction procurer may contact the issuer of the security and claim the payment of the amount secured.

Secondly, the time and conditions for making the advance payment vary depending on the agreements between the parties and the specific nature of the site. If the construction procurer does not wish to make an advance payment to the subcontractor, it is possible to structure the transaction documents in such a way that the advance payment is paid to directly cover the subcontractor's expenses, e.g., paying the supplier of materials. There are a few possible payment options, so in each case the terms of the transaction can be set up such as to minimise the risk of not being able to recover the advance payment. However, if an advance payment is not secured with an appropriate guarantee or insurance policy, there is always a risk that it may not be recovered in the event of default, or may only be recovered through court action.

2.7. What kind of security can be included in the contract to guarantee the fulfilment of the subcontractor's duties?

1. Contract performance security or warranty period security is made in the form of a bank guarantee or insurance policy;
2. If the contract prescribes period-based payments, the parties may agree to withhold an amount from the period-based payments that the construction procurer keeps and 'accrues' in order to guarantee the performance of the subcontractor's obligations. The deductions can be different, and cover the work performed and/or the warranty period.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.8. What is the ICC guarantee?

A credit institution guarantee issued in accordance with the Uniform Rules for Demand Guarantees issued by the International Chamber of Commerce (ICC), ICC Publication No. 758. A bank guarantee issued under these rules states that the amount of the guarantee is payable on first demand, without having to prove the default on the contract as is the case with conventional insurance policies.

Insurance companies can also issue insurance policies that meet the conditions of the above rules and are payable on first demand. In such a case, the parties to the transaction must agree on this accordingly in the contract. It is better for the recipient of the guarantee to obtain those that comply with the ICC rules, as opposed to conventional insurance policies.

For more information about securities and types of securities, please refer to the guidelines prepared by the Finance Latvia Association: <https://www.iub.gov.lv/lv/media/5045/download?attachment>.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.9. How can the construction procurer protect itself if a subcontractor does not fulfil its contractual duties?

Contracts can include various mechanisms to be used if the other party does not fulfil its contractual duties, or fulfils them inadequately. Various complications and unforeseen situations can arise at any construction site, and a properly drafted contract will help to find a legal solution to these. Below are just some of the possible options:

a) Contract termination

First of all, it is important to remember the principle of *pacta sunt servanda* stated in Section 1587 of the Civil Law: 'A contract legally entered into shall impose on a contracting party a duty to perform what was promised, and neither the exceptional difficulty of the transaction, nor difficulties in performance arising later, shall give the right to one party to withdraw from the contract, even if the other party is compensated for losses.' Furthermore, according to Section 1588 of the Civil Law: 'One party may not withdraw from a contract without the consent of the other party, even if the latter fails to perform it and due to the failure to perform it.'

Thus, in order to allow the construction procurer to unilaterally withdraw from the contract with the subcontractor if the latter fails or delays the fulfilment of its duties, the contract must indicate the cases in which the construction procurer may terminate the contract early on the basis of Section 1589 of the Civil Law, for example, if there has been an unjustified cessation of the construction, delay in the performance of the construction, or failure to comply with the internal rules of the construction site.

⁵ See Section 1846 of the Civil Law.

⁶ See Section 8.1 of the 17 February 2020 Judgment of the Senate of the Supreme Court, Department of Civil Cases, in Case No. C32230915, SKC-54/2020.

b) Using security to cover own claims

If the contract provides for performance security, the construction procurer may use it to cover its claims, pertaining to damage, contractual fines, etc.

c) Use of offset

First and foremost, we must emphasise that offset means the settlement of a claim through a counterclaim.⁵ Consider the following example: the construction procurer imposes a fine of EUR 500 on the subcontractor for completing its work late, while the subcontractor has, in accordance with the contract, submitted a justified invoice for a total of EUR 10,000 for the work, and the invoice is now due. Both the parties have claims against each other: one for the payment of a contractual fine, and the other regarding paying for the work. The subcontractor believes that it is not to blame for the delay, while the construction procurer has the opposite opinion. There is a dispute between the parties as to the justification of the imposition of the contractual fine, which means that there is a dispute as to the existence of the claim.

In the event of a dispute over the existence or scope of a counterclaim, etc., the law does not grant the debtor the right to use offset against the will of the creditor.⁶ For these reasons, the construction procurer cannot reduce the amount payable to the subcontractor to EUR 9500 without the consent of the subcontractor. Instead, the construction procurer has to pay the subcontractor EUR 10,000 for the work and maintain its claim for the contractual fine. If the parties fail to reach an agreement, they will submit the dispute to the court.

2. CONSTRUCTION CONTRACT PROVISIONS IF YOU ARE PROCURING CONSTRUCTION WORK

2.9. How can the construction procurer protect itself if a subcontractor does not fulfil its contractual duties?

In order for the construction procurer to be able to rid itself of the above situation and still exercise the right of unilateral offset without the consent of the subcontractor, this power must be included in the contract. In other words, the parties must agree in the contract that the construction procurer may unilaterally offset its claims towards the subcontractor (e.g., for the payment of contractual fines and damages) against the subcontractor's counterclaims towards the construction procurer (e.g., paying for the work) without the subcontractor's consent.

d) Changes to the scope of work

If the construction procurer believes that the subcontractor has the capacity to perform the contract, but only partially, the parties may agree to give the construction procurer the right to do the following in certain circumstances, unilaterally, and without compensating the subcontractor for lost profits or other damage:

- reduce the scope of the work;
- procure the materials needed for the work instead of the subcontractor, reducing the contract price by the corresponding amount, etc.

3. CONSTRUCTION CONTRACT CONDITIONS IF YOU ARE PERFORMING THE CONSTRUCTION WORK AND YOU ARE THE MAIN CONTRACTOR

3.1. Are there any laws and regulations that govern the terms of such a contract?

Cabinet Regulation No. 419 'Regulations on mandatory conditions of public construction contracts and their content' took effect on 12 July 2022. These regulations set the conditions that the client of the construction must include in the procurement contract if construction work is to be performed (including under a combination design-and-construction contract). These regulations apply to procurement contracts that are concluded as a result of procurement procedures organised in accordance with the Public Procurement Law or the Law on the Procurements of Public Service Providers.

The draft procurement contract enclosed with the procurement documents must comply with the requirements of these regulations. The regulations set the conditions for the acceptance of work, the payment procedure, the contractual fines, and other relevant matters. Within the procurement, the client is not entitled to set conditions in its procurement contracts that contradict these regulations unless the regulations expressly provide otherwise.

3. CONSTRUCTION CONTRACT CONDITIONS IF YOU ARE PERFORMING THE CONSTRUCTION WORK AND YOU ARE THE MAIN CONTRACTOR

3.2. What conditions must particularly be paid attention to before signing the contract?

It is not possible to determine beforehand which contractual conditions are essential and which are not. Every contract must be read and assessed carefully before it is signed.

Based on what we have seen in practice, we recommend paying particular attention to the following:

1. the conditions the contract sets for determining the scope of work, as in practice, it is often the case that construction initiators included the contractor's liability for errors or discrepancies in the construction design in the contract, which very often leads to disputes. So it is worth remembering that according to Section 19.2(1), the developer of the construction design ensures that the construction design and its solutions comply with the requirements of the construction initiator and the requirements of laws and regulations, as well as the requirements specified in the applicable standards and the information included in the documentation. At the same time, in accordance with Section 19.2(4), the building contractor ensures that the structure or its part that is built as a result of the contractor's work complies with the construction design and its solutions, and is responsible for the quality of the work and the use of appropriate construction products and of the correct techniques for installing such products (to the extent that the construction design does not unambiguously specify a particular construction product or technique);
2. if the contract provides for the acceptance of work carried out within a particular period, or sets a certain number of days during which the client examines the work performance report. The parties may also agree that if no reply is received within the specified period, the submitted work performance report is deemed to have been automatically accepted by the client and the contractor is entitled to submit an invoice for the work;
3. if the site is subject to construction supervision, whether the contract specifies the deadline for the client to ensure that the construction supervisor arrives for the acceptance of the construction work;
4. if the contract grants the other party the right of unilateral offset and whether it must be approved in the particular transaction (see also Section 2.9 of this manual);
5. if the contract specifies penalties for the non-fulfilment of obligations or their late fulfilment that are commensurate and acceptable. From the point of view of protecting the interests of the contractor, it is important that contractual fines for late performance are not charged over the full amount of the contract, but over the remaining value of the delayed obligation: for example, the contractual fine for late performance can be charged over the value of the delayed work, not over the full amount of the contract;
6. if the contract sets a deadline for the client to reply to the contractor's requests for information;
7. if the contractor is required to get approvals from the client for some or all of the materials to be used in the construction, and if a deadline is set for obtaining these approvals;
8. the conditions under which an increase in the contract price or an extension of the deadline for completion of the construction may be granted;

3. CONSTRUCTION CONTRACT CONDITIONS IF YOU ARE PERFORMING THE CONSTRUCTION WORK AND YOU ARE THE MAIN CONTRACTOR

3.2. What conditions must particularly be paid attention to before signing the contract?

9. if the deadline for the work includes routine maintenance breaks;
10. if the contract establishes the client's right to unilaterally suspend the construction for reasons beyond the control of the contractor, for example, in the event of a lack of funding, whether there is a maximum period of such suspension after which the contractor may unilaterally terminate the contract. It is also important for the parties to agree on how the costs of downtime, demobilisation, re-mobilisation, mothballing, security, and other costs are to be covered;
11. Options for revising and indexing the contract price, for example, as a result of inflation or other circumstances that increase the construction costs;
12. If the client has the right to unilaterally change the scope of the work or to change the materials to be used in the construction; if there is a mechanism for compensating the contractor's expenses, e.g., for materials already ordered;
13. If the scope of the work and the work performance deadline include the commissioning of the site. The commissioning of the site in accordance with the requirements of laws and regulations is the responsibility of the construction initiator unless the construction initiator authorises the building contractor to perform it in the construction contract.⁷ If the scope of the work includes the commissioning of the site, the commissioning date must be taken into account in determining the completion deadline and setting up the work schedule;
14. the obligations of the building contractor during the warranty period, the deadlines for rectifying flaws and deficiencies, and the procedure for resolving disputes.

Note! The conditions listed are just some of those that need special attention in examining construction contract drafts. Every construction site and every contract has its unique features, and it is impossible to give a one-size-fits-all list.

See Section 21(1) of the Construction Law and Section 88 of Cabinet Regulation No. 500 'General construction regulations' of 19 August 2014.

⁷ See Section 21(1) of the Construction Law and Section 88 of Cabinet Regulation No. 500 'General construction regulations' of 19 August 2014.

3. CONSTRUCTION CONTRACT CONDITIONS IF YOU ARE PERFORMING THE CONSTRUCTION WORK AND YOU ARE THE MAIN CONTRACTOR

3.3. What can the contractor do with the contract to protect itself from the client not paying the contractor's invoices?

In construction contracts where you are the contractor, it is important to lay down conditions under which you are entitled to suspend the performance of the construction or to unilaterally terminate the construction contract if the client fails to pay for the work in time. Otherwise, the performance of the work will have to continue, even if the other party delays payments. Because a failure to pay the invoices in time has a severe impact on the company's entire planned cash flow, its ability to order materials in time, to pay its subcontractors, and, finally, to pay wages to its workers, including such a right in the contract is especially important.

In such cases, it is also critical to agree on the additional expenses incurred by the contractor as a result of suspending the construction, with the costs of downtime, demobilisation, mobilisation, site security, increase in the cost of materials or construction work due to delays in the original schedule, etc.

The parties may also agree in the contract on the use of a payment guarantee, whereby the client provides the contractor with a payment guarantee issued by a credit institution, in accordance with which the credit institution undertakes to pay the contractor if the client fails to make its payments in accordance with the contract and within its deadlines.

4. CONSTRUCTION CONTRACT PERFORMANCE

4.1. Phone conversations are not for matters critical for fulfilling the contract

Various disputes may arise between the parties in any construction project, and in these disputes, it is important for the contractor as well as the subcontractor to be able to prove certain facts. In practice, it is often the case that the parties use phone conversations to address matters important for the performance of the contract, such as additional construction work or deadlines.

Phone conversations are not an appropriate way to record topics that are important for the construction of a site. We recommend contractual parties to record important facts in construction meeting minutes or in separately signed fact confirmation certificates (commonly referred to as FKA), which record the availability for the scope of work, need for additional construction, necessary changes in the construction design, construction work defects, etc.

4.2. Informing the other party in time

Construction contracts often contain clauses that require a party to notify the other party within a certain number of days of important events that may have an impact on the contract price or the deadline for completion of the work. The parties also often agree that a failure to fulfil the duty to notify within the deadline results in the contractor losing the right to request an increase in the contract price or a change in the deadline for completion of the work. It is, therefore, essential to observe this duty to notify by sending the information in question via post or e-mail, depending on the communication arrangements between the parties set out in the contract..

4. CONSTRUCTION CONTRACT PERFORMANCE

4.3. Amending the construction design

It is difficult to name a project that has been completed without a single change in the construction design. In practice, we often see that the construction work is performed before the corresponding changes to the construction design are formalised. They are often formalised later, sometimes just before the building is actually commissioned.

So, we would like to remind you of the administrative liability for performing construction with deviations from the construction design if the corresponding changes to the construction design have not been approved* in accordance with the Construction Law, and deviations have been found from:

- 1) the explanatory note, for which a warning or a fine of up to twenty-five penalty units is imposed on a natural individual, and up to thirty-five penalty units, on a legal entity;
- 2) the certification card, for which a warning or a fine of up to fifty-five penalty units is imposed on a natural individual, and up to sixty penalty units, on a legal entity;
- 3) the construction design, the implementation of which requires a building permit, for which a warning or a fine of up to four hundred penalty units is imposed on a natural individual, and up to five hundred penalty units, on a legal entity.⁸

* Laws and regulations may also have provisions for certain exceptional circumstances in which deviations from the approved construction planning documentation are allowed. For example, Section 8(5.1) of the Law on Construction of the External Land Border Infrastructure states that if during the construction of external border infrastructure, including utility infrastructure, the construction participants agree on changes in the construction design, the construction contractor is entitled not to suspend the construction during the development, approval, and confirmation of the changes. The development and approval of changes to the construction design must be completed before the structure is commissioned.

⁸ See Section 25(2) of the Construction Law, Section 16(2) of the Law on Administrative Liability, in accordance with which 1 fine unit is EUR 5 since Augusts 12th 2024.

4. CONSTRUCTION CONTRACT PERFORMANCE

4.4. Contract amendments

If during a contract, it becomes necessary to perform additional work that the parties agree to carry out, or if the parties agree on changes in the deadline for the work, these changes must be formalised as written amendments to the contract. In situations where additional work is not incorporated into the scope of the contract via written amendments to the contract, it is not uncommon to see disputes between the parties over the payment for such work in general, as well as the scope or the cost of this work. Performing additional work without amending the contract is a risk for the contractor, and it must be avoided as much as possible.

At the same time, laws and regulations binding to public procurers and, accordingly, to the contractor must be taken into account when performing construction as part of a procurement contract. These laws and regulations set restrictions and conditions for amending public procurement contracts.⁹

Note! The preconditions for the reliable performance of additional work are: contract amendments + corresponding changes to the construction design.

See Section 61 of the Public Procurement Law, Section 66 of the Law on the Procurements of Public Service Providers, Section 56 of the Law on Procurements in the Field of Defence and Security, Section 8.1 of the Procurement Monitoring Bureau 'Procurement guidelines for public service providers'.

4.5. Approval and replacement of subcontractors, specialists

In procurement contracts, the procedure for approving and replacing subcontractors and specialists is regulated in both the contract and the appropriate laws and regulations.¹⁰ But even for private contracts, the parties may agree on a procedure for replacing or hiring subcontractors or, for example, key specialists. It is essential that this procedure is followed during the contract. We've found that it is often overlooked as an unimportant task within the context of the entire construction process. However, some contracts set fines for violating this procedure.

Note! For the purposes of the laws and regulations governing procurement, suppliers and manufacturers of materials are not considered subcontractors. If the supplier or manufacturer of a piece of equipment also performs, for example, the on-site assembly of that equipment, it is considered a subcontractor.

⁹ See Section 61 of the Public Procurement Law, Section 66 of the Law on the Procurements of Public Service Providers, Section 56 of the Law on Procurements in the Field of Defence and Security, Section 8.1 of the Procurement Monitoring Bureau 'Procurement guidelines for public service providers'.

¹⁰ See Section 62 of the Public Procurement Law, Section 57 of the Law on Procurements in the Field of Defence and Security, Section 67 of the Law on the Procurements of Public Service Providers. Lorem ipsum sit amet

4. CONSTRUCTION CONTRACT PERFORMANCE

4.6. Submission of documents

If documents (e.g., letters, invoices, work performance reports) are submitted to the other party in paper form and in person, it is important to keep an acknowledgement of the recipient of the documents indicating that these documents were submitted and the date on which they were submitted. For example, when submitting a work performance report or a letter in person, we recommend asking the other party to sign an acknowledgement of receipt, making a note on the second copy of the document.

4.7. Warranty period and defects

During the warranty period, it is very common for contractors not to follow the contractual procedure and to subcontract their warranty work. For example, hiring a subcontractor to prepare a defect report if it is required by the contract. It is important to follow the contractual procedure in notifying the other party of defects so that, if the contractual obligations are not fulfilled, the other party can reliably repair the defects using its own means, or call in a third party to do so, charging the contractor for this.



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