

Terms and conditions of contract for using SmartScaffoldingServices

of Ast Consult

Preamble

SmartScaffoldingServices is a software-supported tool, operated by Ast Consult, which allows for the configuration of various scaffolding systems for specific scaffolding applications.

The SmartScaffoldingServices entail the provision of the

- Functionalities of the FFC software
- FFC-compatible system data sets

As a sector solution, the functionalities of the FFC software offer planning for support scaffolding with the application of scaffolding systems, based on valid methods and instruments, and in compliance with the formal regulatory framework.

Each manufacturer or other holder of the rights to the scaffolding system is given the opportunity to make its system available to the customer in the SmartScaffoldingServices by making a system data set available. Ast Consult does not make any pre-selections in this respect. However, it relies on the offer of the rights holders.

Using SmartScaffoldingServices takes for granted a certain degree of specialist knowledge and is only intended for specialists.

Section 1 General, scope

- 1) These terms and conditions of contract for use apply to all business relations between the Users and Ast Consult as part of using the web-based SmartScaffoldingServices. Hereinafter, Ast Consult shall be referred to as the >>Operator<<, and the User as the >>User<<.
- 2) The SmartScaffoldingServices may only be used if the User is an entrepreneur (Section 14 BGB (German Civil Code)), a legal person under public law or federal special funds.
- 3) Solely these terms and conditions of contract for use are authoritative in respect of the legal relations between the Operator and the User. They apply on an exclusive basis. General terms and conditions of business of the User or to the contrary or those that vary from our conditions, or supplementary conditions, shall only become an integral part of the contract if and insofar as the Operator has expressly consented to the validity of such conditions in writing. This approval requirement shall apply in any case, for example including if the Operator unreservedly renders services for the User although it is aware of the User's terms and conditions of business.
- 4) The version valid at the time of sending the registration applies. In the case of an order or download, the version valid at the time of the respective order or download shall apply.
- 5) The terms and conditions of use can be viewed online at all times at www.smartscaff.de. The Operator reserves the right to amend these conditions of use. Accordingly, the User is entitled to an extraordinary, special termination right without notice. Insofar as the User does not exercise its termination right within three weeks following the announcement of the aforementioned website, its consent to the amendments shall be deemed given.

Section 2 Subject matter of contract, services on the part of the Operator

- 1) The **subject matter of the contract for use** is the granting of the SmartScaffoldingServices via the provided web platform and downloads that may be made available there in accordance with these terms and conditions of contract for use. The scope of this utilisation right is set out in Section 3, in addition to the regulations of this section. The principal service entails using the functionalities of the FFC software within the SmartScaffoldingServices in conjunction with released, FFC-compatible, system data sets of the respective manufacturer or rights holder. There is no entitlement to the provision of certain functionalities.

The subject matter of contract is a service in that the SmartScaffoldingServices offers the virtual option of putting together scaffolding parts of certain manufacturers and performing certain calculations and drawing up instructions in relation to the scaffolding individually configured by the User. If the User makes use of calculation options that are made available by the Operator, the authorisation for use comprises the use of the calculated data for one project.

- 2) The job results obtained as part of the SmartScaffoldingServices, e.g. in the form of instructions, data and other products, may be forwarded to all persons and companies that are involved in conducting the project.
- 3) Attention is drawn to the fact that the Operator is not responsible for the correct implementation of the job results and that such results are only intended for a group of persons with the necessary expertise. In the case of forwarding to third parties, the User is responsible for deciding on the parties that shall receive the job results and how such results are used.
- 4) All manufacturers and other rights holders of scaffolding systems (hereinafter >>Rights Holders<<) are free to make their scaffolding systems available in SmartScaffoldingServices. The systems in the SmartScaffoldingServices do not constitute any pre-selection based on technical or other aspects. The selection is merely conditional on the fact that the respective Rights Holder makes available its scaffolding system in the SmartScaffoldingServices, and has consented to the use. Therefore, the User has no entitlement to certain scaffolding and scaffolding parts being visualised, configured and/or charged with SmartScaffoldingServices.
- 5) SmartScaffoldingServices does not replace the review of the technical feasibility to be conducted by an expert prior to assembly.

- 6) The Operator shall provide assistance in the form of documentation.
- 7) The User is not entitled to SmartScaffoldingServices not being interrupted or being permanently available, and is not entitled to Updates or Upgrades. The Operator may amend or restrict the services at any time or discontinue these and the technical support as a whole. The SmartScaffoldingServices are operated via an external server. Uninterrupted service in this respect cannot be guaranteed. Availability of at least 96% can be assured.
- 8) The performance does not include use of the internet that is required in this respect. The User is responsible at its own cost for the internet access, the technical preconditions and the configuration and performance of the terminal for using SmartScaffoldingServices and the up-to-date nature of the required software. As a result of using SmartScaffoldingServices, Users may incur additional costs in the form of connection charges imposed by third parties.
- 9) If third-party proprietary rights have a detrimental effect on the use of the SmartScaffoldingServices without culpability on the part of the Operator, the Operator shall be entitled to refuse to render the services affected as a result. In such a case, the User does not undertake to make payments for the services.
- 10) The subject matter of the services is merely the use of the functionalities of the FFC software of SmartScaffoldingServices as made available by the Operator. The Operator has no option whatsoever of reviewing the data made available by the respective manufacturers. Therefore, the Operator does not assume any liability for errors that are based on the manufacturer's data. The same applies to entry errors by the User.
- 11) By way of a separate contract, the User can make use of **supplementary advice** by the Operator regarding application, technical or formal matters in relation to the SmartScaffoldingServices. The same applies to additional functions that may be requested. The respective conditions set out in these terms and conditions of contract for use apply accordingly.

Section 3 Scope of the utilisation right

- 1) The User shall be granted the basic, non-exclusive, non-assignable and restricted right, for the term of its user account to use SmartScaffoldingServices as part of the functionalities in place in the FFC-compatible system data set and as part of these conditions for use. Use is permitted for an internet-capable terminal that belongs to the User or is controlled by the User. The utilisation right is associated with a single computer. Furthermore, the User does not acquire any claims whatsoever to other rights. The utilisation right applies to the technical application area of SmartScaffoldingServices released by the Operator for the User.
- 2) The Operator is the sole Rights Holder and party granting rights to the FFC software.
- 3) The utilisation right for functionalities of the SmartScaffoldingServices in relation to a specific scaffolding system is bound by the release of the User by the corresponding Rights Holder. It only arises upon the release by the Rights Holder and ends upon withdrawal of the release by the Rights Holder. A reason or period need not be stated for such a withdrawal. It shall occur by way of a statement issued to the Operator. The User shall be informed in that respect.
- 4) The User may not surrender to third parties downloads, other parts of the software or the software itself, in particular the User may not let or lend these, without approval by the Operator.
- 5) The entitlement to download may not be assigned and only applies if property rights (copyright notices and similar references regarding authorship) and brands and names remain unchanged when reproduced.
- 6) The granting of rights is not associated with further-reaching rights, in particular to the Software itself, calculated data, instructions or other products.
- 7) In other respects, the User is not entitled to alter, translate, reverse engineer, decompile or disassemble the software or port it to another operating system. Decompiling the programme code in other code forms and other types of reverse engineering the various manufacturing stages of the software are not permitted. Reworking and creating compiled works are also not permitted.

- 8) Copyright notices, series numbers or other features of the software, data, instructions and other products aimed at identification may not be removed or altered.
- 9) The User is to refrain from attempting, itself or via unauthorised third parties, to call-up information or data without authorisation or access programmes operated by the Operator or make arrangements for such access to be gained or access data networks of the Operator without authorisation.
- 10) The User's user account may only be used by the User personally and not, however, by third parties.
- 11) The following applies to chargeable services: for each case of violation of the aforementioned sub-sections 1 to 5 and 7 to 10 of this Section 3, the User shall be required to pay a **contractual penalty**, which immediately falls due for payments of ten times the charge in accordance with the Operator's Services subject to charges for the chargeable work results. If no chargeable services are used, the amount of the contractual penalty shall be determined in accordance with 5 times the list price of the servicing during the violation period. This does not affect claims for damages. In such a case, the contractual penalty shall be counted towards the claim for damages.

Section 4 Entering into a contract

- 1) The rendering of the services is subject to registration by the User. The Operator manages an account for each User.
- 2) The User consents to the validity of these terms and conditions of contract for use upon sending the registration. The authorisation for use is thereupon granted by forwarding the password link by the Operator. The authorisation for use initially only refers to non-chargeable functionalities of the SmartScaffoldingServices. Chargeable functionalities of the SmartScaffoldingServices such as drawing up calculations, instructions and other results of use are not included.
- 3) Using chargeable functionalities of the software is conditional on providing online credit in the User's company account to which the corresponding remuneration has been paid to the Operator prior to utilisation of chargeable services in accordance with sub-section 4 below.
- 4) The following applies with regard to chargeable functionalities in accordance with Services subject to charges of the SmartScaffoldingServices: by clicking on the corresponding button containing a reference to the liability to pay a charge, the User makes a binding offer to enter into a utilisation contract under the validity of these terms and conditions of contract for use. The subject matter of contract is the use of the specific chargeable functionality of the SmartScaffoldingServices. Acceptance applies either by way of release by the Operator or provision of the specific functionality of the SmartScaffoldingServices for use. The Operator has freedom of contract in respect of the release or provision. The Operator is, in particular, entitled to refuse if the online credit of the User's company account does not at least contain an amount that falls due for the chargeable functionality.
- 5) With regard to the option of using a certain scaffolding system in the SmartScaffoldingServices, the contract is subject to a condition precedent of the **release** by the manufacturer or the Rights Holder, and is subject to a condition subsequent by the withdrawal of such release. The Operator assumes the task of obtaining the release as a service by order of the User. To that end, the User's data are to be forwarded to the Rights Holder.
- 6) The Operator specifies whether a service shall be free of charge or chargeable. This may be amended at any time. This is provided for in the Operator's services subject to charges as stated in the respective valid version.
- 7) For technical reasons, the buyer cannot accept orders by fax, letter or e-mail.

Section 5 General obligations on the part of the User

- 1) The SmartScaffoldingServices may only be used by the User as per agreement. This takes for granted the fact that the FFC software shall be used in accordance with the requirements of the appertaining product documentation of the Rights Holder within its performance limits. The FFC software supports the planning of support scaffolding with application of scaffolding systems, based on valid methods and instruments, and in compliance with the formal regulatory framework.
- 2) If the User becomes aware of discrepancies or errors as part of using the FFC software, the User shall notify the Operator of this without delay and in text form.
- 3) The User undertakes to provide truthful details about its data when registering.
- 4) Use may only occur such that detrimental effects, overloading or damage does not apply to SmartScaffoldingServices, and the purpose pursued by way of this application is neither jeopardised nor bypassed. The User may neither personally nor via third parties bypass or alter the safety precautions on of SmartScaffoldingServices.
- 5) Use in accordance with these conditions for use is only permitted as part of valid law.
- 6) The User is personally responsible for providing adequate data security.
- 7) The User is personally responsible for maintaining secrecy regarding the user name and password. The User is to adopt suitable measures to provide protection against misuse or loss.
- 8) Prior to the sending of data information that may be permitted in accordance with these terms and conditions of contract for use, such transmissions are to be checked for viruses, and virus protection programmes in line with the latest technological developments are to be used.
- 9) The User may only use the FFC-software and the system data set on a terminal that it owns or one that it controls. If the User changes the hardware, the FFC software and the system data set must be deleted from the hardware used to date. Simultaneous saving, keeping ready or using on more than one piece of hardware is not permitted apart from if the User opens an additional user account in that respect.
- 10) The User undertakes to prevent unauthorised third party access to the programme and the documentation by way of suitable precautions.

Section 6 Prices, terms and conditions of payment, acceptance

- 1) Remuneration for using certain functionalities shall fall due insofar as the service is marked as chargeable in the Operator's Services subject to charges at the time of utilising the functionality or if the User clicks on a corresponding button marked chargeable service and the contract for use is brought about in this respect in accordance with Section 4.
- 2) The Operator's Services subject to charges as stated in the version valid at the time of using the functionality apply. The prices are to be understood plus direct taxes, in particular withholding and transaction taxes, in particular statutory turnover tax, provided this is permissible in accordance with the law of the country imposing the taxes.
- 3) Potential additional or special services shall be performed and settled on a case-by-case basis following separate commissioning.
- 4) Payment in advance is agreed upon in respect of paying the remuneration. Payment is to be made via the payment methods made available on the website. The following are possible at present: deduction of the remuneration from the online credit in the User's company account to which amounts have been transferred in advance via credit card, online transfer or debit card. In the case of Users who have their place of residence abroad in the case of justified indications of the risk of default in payment, we reserve the right to restrict the possible payment methods. In any case, an option to use shall only be granted following receipt of payment.

- 5) Default in payment on the part of the User shall occur two weeks following provision of the functionalities. In the event of default in payment on the part of the User, the Operator shall be entitled, by way of exercising its right of retention, to prevent use of the SmartScaffoldingServices by blocking the account up until the outstanding claims have been settled. This does not affect claims for damages. Interest of 8 percentage points above the base-lending rate shall fall due. The Operator may assert such a claim from the due date in accordance with Section 353 HGB (German Commercial Code).
- 6) The following applies insofar as acceptance of the service is required for legal reasons:

A period of 14 days following completion of the calculation by the software or other products and viewing options on the part of the User is agreed upon for the acceptance of the results of using the SmartScaffoldingServices. Section 640(1) Sentence 2 BGB applies whereby failure on the part of the User to accept the work within the aforementioned period, although it undertakes to do so, shall be equated with acceptance. Use of the calculation results merely on a trial basis shall be deemed acceptance.
- 7) The User shall only have a right to set off if its claim has become res judicata or is undisputed. This also applies to retention rights.

Section 7 Copyrights, commercial property rights, exemption

- 1) The content (technical details; descriptions; other texts; images; graphics; sound, video and animation files; their design as well as source codes and calculation formula and the like) of SmartScaffoldingServices is protected by copyright namely both as an individual service and as a compilation. Furthermore, commercial property rights such as trademark rights, patent rights or registered design rights may apply in addition. The User is to ensure that all commercial property rights and copyrights are complied with.
- 2) The content is only available for call-up as per agreement in SmartScaffoldingServices. Content of SmartScaffoldingServices may not be duplicated, disseminated, altered or made available to third parties in any form without written approval by the Operator. Downloading and using material that is protected by copyright and commercial property rights, and is made available via SmartScaffoldingServices, are exclusively permitted as part of these conditions of use and the statutory requirements.
- 3) Insofar as the Operator makes available know-how, irrespective of whether it is protected and/or unprotected, the Operator shall remain the holder of all rights. The User is merely granted a utilisation right in accordance with these terms and conditions of contract for use.
- 4) Material, documents and data that are made available to the User, irrespective in whichever form, shall remain the Operator's property including following hand over to the User. They are only surrendered to the User for the term of this contract, and are therefore to be returned without delay and in full following the end of the contract.
- 5) SmartScaffoldingServices entails content that may be protected by third party rights. The rights to the scaffolding systems and FFC-compatible system data sets made available in SmartScaffoldingServices in that respect are held by the respective Rights Holder of the respective scaffolding system. The restrictions on use apply, in particular, to such content. In the absence of provisions to the contrary, all trademarks in SmartScaffoldingServices are protected by copyright with the statutory consequences of unauthorised use.
- 6) In the event of culpable infringement of rights by the User, in particular copyright and/or commercial property rights infringements, the User shall render the Operator exempt from any claims, in particular third party claims for damages. This also includes the cost of an appropriate legal defence. In other respects, the User undertakes as part of the statutory requirements to compensate the Operator for damage sustained by the Operator.
- 7) Insofar as third parties bring legal action against the Operator regarding rights infringements, the User undertakes to comprehensively support the Operator in its defence against the claims, in particular by way of presenting the required documents or furnishing the required information without delay.

Section 8 Data protection

- 1) Both parties shall comply with the respective valid data protection law provisions, and place their employees deployed in conjunction with the terms and conditions of contract for use under obligation to maintain data secrecy pursuant to Section 5 BGSB provided they are not already generally under such obligation accordingly.
- 2) The SmartScaffoldingServices are operated via an external server in Germany, the EU or the EEA. Data are encrypted when transmitted. The Operator only collects personal data if you make such data available in the capacity of User. Personal data shall be stored and used in line with the German data protection provisions for the term of the contract for the purpose of data administration, establishing and rendering the services and to process Users' questions. The User hereby states that it has been informed within the meaning of the German Federal Data Protection Act that its personal data shall be saved, processed and used in conjunction with the contractual relationship. The User hereby consents to this.
- 3) Forwarding the data to third parties, e.g. programmers, scaffolding manufacturers or other Rights Holders and insurers, may be necessary to render the services. Forwarding data to the Rights Holders of the scaffolding systems is, in particular, necessary to obtain the release. However, such data shall only be saved or forwarded to an extent required to execute, honour or process the contract and administer data. Forwarding to third parties shall also be taken into consideration for the purpose, and the duration, of a credit check or to prevent default in payment. The User consents to this.
- 4) Information about the information saved by the Operator may be requested at any time. Similarly, you are entitled to the correction, deletion and blocking of your saved personal data. Consent given to the use of the personal data beyond the existing use and settlement data may be withdrawn at any time with an effect for the future.
- 5) If the User collects, processes personal data, or via the Operator, the User is to ensure that it is authorised in that respect in accordance with the applicable, in particular data protection law, provisions and in the event of violation shall render the Operator exempt from third-party claims.

Section 9 Compatibility

- 1) Compatibility of the SmartScaffoldingServices with the User's terminal cannot be guaranteed.
- 2) Compatibility problems may have a temporary or permanent detrimental effect on the functionality of the terminal or even prevent the terminal from functioning properly. Furthermore, the consequences can include data loss and detrimental effects on software.
- 3) The User acknowledges that the Operator is not liable for data loss, detrimental effects or damage of any kind that are caused by compatibility problems.
- 4) The permissibility of downloading the SmartScaffoldingServices as part of these terms and conditions of use is similarly incumbent upon the User's area of responsibility. The Operator is, insofar, not liable. This applies, in particular, to potential damage or costs.

Section 10 Guarantee, liability

- 1) The Operator shall endeavour to extend and up-date its service range. However, liability cannot be assumed for the complete nature, accuracy and recent up-to-date nature as part of the non-chargeable functionalities. Constant and interrupted availability of SmartScaffoldingServices cannot be guaranteed. Similarly, liability shall not be assumed for the scaffolding systems of the manufacturers or the system data sets based on these.
- 2) Liability for potential security vulnerabilities in the used operating systems or software products is not assumed.

- 3) The Operator is not liable for potential remuneration for the internet connection. The Operator does not guarantee that interactive processes will reach the User correctly or that the dialling procedure via the internet is guaranteed at all times. The same applies to a certain transmission speed.
- 4) The Operator does not assume any liability for data security outside its sphere of influence.
- 5) The subject matter of the services is merely the use of the functionalities of the software of SmartScaffoldingServices as made available by the Operator. The Operator has no option whatsoever of reviewing the data made available by the respective manufacturers. Therefore, the Operator does not assume any liability for errors that are based on the manufacturer's data. The same applies to entry errors by the Users. The Operator does not assume any liability whatsoever for errors on the part of the User in respect of the configuration, set-up or application of scaffolding systems.
- 6) The Operator shall only be liable for defects in the technical capability of rendering the services of SmartScaffoldingServices insofar as it was aware of such defects upon entering into the contract granting the right of use or if the Operator remained unaware of these as a result of gross negligence. Potential no-fault liability on the part of the Operator for claims for damages for defects that existed at the time of entering into the contract (Section 536a BGB) is excluded.
- 7) The Operator is, in particular, not liable for the commercial capability of evaluating the services of the SmartScaffoldingServices.
- 8) In other respects, the Operator's liability, irrespective on whichever grounds, is excluded in accordance with this regulation. Claims resulting from the loss of life, physical injury or detrimental effects on health shall be excluded if the Operator is responsible for violating an obligation or claims regarding other damage attributable to intent or gross negligent violation of an obligation on the part of the Operator shall be excluded. Furthermore, in the case of basic negligence the Operator shall only be liable for damage resulting from the violation of a key contractual obligation (an obligation which must be honoured to bring about proper execution of the contract and in respect of which the contracting party can normally expect, and place its trust in, compliance in that respect). However, in such a case our liability is restricted to compensation for foreseeable, typical cases of damage.
- 9) This does not affect claims resulting from the German Product Liability Act.
- 10) Insofar as the Operator is liable for damages in accordance with the above on merit, such liability shall be limited to damage that we had foreseen upon entering into the contract as a possible consequence of a breach of contract or which we should have foreseen in the case of applying customary care. In addition, indirect and consequential damage as a result of defects shall only be subject to compensation provided such damage is typically to be expected in the case of using the service as per agreement.
- 11) In the event of liability for basic negligence, the Operator's obligation to provide compensation for material damage and resulting additional pecuniary damage is limited to an amount of 100% of the remuneration agreed when entering into the contract for the service affected by the damage. An obligation to provide compensation does not apply in the case of free services.
- 12) The above limitations on liability apply to the same extent in favour of our executive bodies, legal representatives, white-collar workers and other vicarious agents.
- 13) Guarantees are not provided.
- 14) Insofar as the Operator furnishes technical information or renders consulting services, and such information or consulting are not part of the scope of services to be provided by the Operator as per agreement, such services shall be rendered by way of exclusion of any kind of liability.

Section 11 Term of contract, end of contract, deleting the account

- 1) The authorisation for use applies for an unlimited period up until the occurrence of one of the following termination facts.
- 2) Either party may properly terminate the account at any time without the existence of a reason to take effect at the end of the term by complying with notice periods in accordance with Services subject to charges. The text form is, insofar, sufficient.

- 3) The User may request at any time that its account be deleted. This shall apply as an immediate termination, and shall lead to the end of the authorisation for use. A servicing fee that may have been paid in the past by the User shall not be disbursed in this respect.
- 4) The Operator shall delete the account insofar as the User has not used the account for a period of 3 years.
- 5) The authorisation for use of functionalities in relation to a certain scaffolding system in the SmartScaffoldingServices ends with the withdrawal of the release by the manufacturer. Reference is made to Section 2(3), Section 3(4) and Section 4(5) of these terms and conditions of contract for use.
- 6) Furthermore, SmartScaffoldingServices may be discontinued by the Operator at any time. An individual notice shall not be provided. However, the discontinuation shall be announced on the website www.innoscaff.de.
- 7) In the event of violation of statutory requirements or these terms and conditions of contract for use, the User may be blocked temporarily or permanently from using the service. This applies in particular in the event of payment arrears. The authorisation for use shall then automatically end without notification. Permanent exclusion from use is, among other things, possible in the case of violation of Sections 3, 5, 7 and 8 of these terms and conditions of contract for use.
- 8) In the event of termination, discontinuation of services or termination in another form, the User shall not be entitled to continue using SmartScaffoldingServices. Downloads are to be de-installed.
- 9) Sections 7 and 8 of these terms and conditions of contract for use shall continue to apply following the end of the contract.

Section 12 Contract language

- 1) German is deemed the contract language. Insofar as duplicates of the contract, the terms and conditions of contract for use or other agreements and terms and conditions of contract are drawn up in other languages, these shall be deemed exclusively to constitute translations that do not acquire the quality of a contract. In the event of variations between a translation and the German text, solely the latter shall be authoritative.
- 2) Written correspondence as part of executing the contract may be conducted in German or English. Notices in other languages are irrelevant.

Section 13 Choice of law, place of performance, place of jurisdiction

- 1) The law of the Federal Republic of Germany applies to this authorisation for use, these terms and conditions of contract for use and all legal relations between the Operator and the User by way of exclusion of the UN Uniform Law.
- 2) The registered office of the User is deemed the place of performance. It is currently Karlsruhe, Germany.
- 3) If the User is a merchant within the meaning of the German Commercial Code, the court with jurisdiction for the Operator's registered office, currently Karlsruhe, Germany, shall be deemed the exclusive – and international – place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship. However, the Operator is also entitled to bring legal action at the User's place of jurisdiction.

Section 14 Contractual amendments, written form, safeguarding clause

- 1) Supplementary information regarding and amendments to the agreements that have been entered into shall be subject to the written form in order to be deemed valid provided these terms and conditions of contract for use do not specify anything to the contrary. This also applies to the written form requirement. Text form (e.g. e-mail) is deemed sufficient for honouring the written form requirement provided this is expressly determined in the contract or in these terms and conditions of contract for use.
- 2) With the exception of managing directors or authorized signatories, the Operator's employees are not entitled to enter into agreements to the contrary of these terms and conditions of contract for use.
- 3) In the event that individual provisions of the contract, including these terms and conditions of business, are or become entirely or partially invalid, this shall not affect the validity of the other provisions. An invalid provision shall be replaced by a provision that comes as close as possible to achieving the commercial success intended via the invalid provision. The same applies to omissions.

Karlsruhe, July 2022