Title: IV.6.3 - Fixing of price by third party

Content: No. IV.6.3 - Fixing of price by one of the parties

If the contract provides that the price is to be fixed or determined by one of parties, and this determination is manifestly unreasonable, the other party may apply to a court or arbitral tribunal to have a reasonable price fixed, notwithstanding any agreements to the contrary.

Commentary:
1 This Principle is derived from the general principle of good faith and takes account of the fact that the parties may leave the determination of the price to one of them. If in such a scenario the price fixed by one party is manifestly unreasonable, the other party may apply to a court or arbitral tribunal to have a reasonable price fixed.

2 The party which fixes the price enjoys a certain discretion. The other party may only apply to the court or arbitral tribunal if the price fixed is "manifestly", i.e. obviously unreasonable.

3 The parties may not derogate from that provision which is intended to protect the party which does not possess the right to fix the price.