
FIDIC Yellow Book

A companion to the

2017 Plant and Design-Build Contract

Revised edition

This page intentionally left blank



FIDIC Yellow Book

A companion to the
2017 Plant and Design-Build Contract

Revised edition

Jakob B Sørensen

**Published by Emerald Publishing Limited, Floor 5,
Northspring, 21–23 Wellington Street, Leeds LS1 4DL.**

ICE Publishing is an imprint of Emerald Publishing Limited

Other ICE Publishing titles:

FIDIC 2017: The Contract Manager's Handbook

Geoffrey Smith. ISBN: 978-0-72776-652-6

FIDIC 2017: A Definitive Guide to Claims and Disputes

Nicholas A. Brown. ISBN: 978-0-72776-531-4

Procurement and Contract Strategies for Construction

Ian Heaphy. ISBN: 978-0-7277-6371-6

A catalogue record for this book is available from the British Library

ISBN 978-1-83608-167-8

Copyright © 2024 Jakob Sørensen. Published under exclusive license by Emerald Publishing Limited.

Permission to use the ICE Publishing logo and ICE name is granted under licence to Emerald from the Institution of Civil Engineers. The Institution of Civil Engineers has not approved or endorsed any of the content herein.

All rights, including translation, reserved. Except as permitted by the Copyright, Designs and Patents Act 1988, no part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying or otherwise, without the prior written permission of the publisher, Emerald Publishing Limited, Floor 5, Northspring, 21–23 Wellington Street, Leeds LS1 4DL.

This book is published on the understanding that the author is solely responsible for the statements made and opinions expressed in it and that its publication does not necessarily imply that such statements and/or opinions are or reflect the views or opinions of the publisher. While every effort has been made to ensure that the statements made and the opinions expressed in this publication provide a safe and accurate guide, no liability or responsibility can be accepted in this respect by the author or publisher.

While every reasonable effort has been undertaken by the author and the publisher to acknowledge copyright on material reproduced, if there has been an oversight please contact the publisher and we will endeavour to correct this upon a reprint.

Cover photo: QinJin/Shutterstock.com

Commissioning Editor: Michael Fenton

Content Development Editor: Cathy Sellars

Books Production Lead: Emma Sudderick

Typeset by KnowledgeWorks Global Limited

Contents

	About the author	xi
	List of abbreviations	xiii
	INTRODUCTION	1
1	About this Companion	3
	1.1 Purpose	3
	1.2 Structure and Contents	4
	1.3 Background and References	4
2	Construction Projects	7
	2.1 Preparing International Contracts	7
	2.2 Construction Contracts	8
3	The FIDIC <i>Conditions of Contract</i>	13
	3.1 Background	13
	3.2 The 2017 <i>Conditions of Contract</i>	18
	3.3 Should I Use the 1999 or the 2017 edition?	18
	3.4 How to Use the FIDIC <i>Conditions of Contract</i>	19
4	Further Reading	23
	GENERAL CONDITIONS	25
	List of Definitions by Category	27
	The Contract	27
	Parties and Persons	27
	Dates, Tests, Periods and Completion	28
	Money and Payments	28
	Works and Goods	29
	Other Definitions	29
1	General Provisions	31
	1.1 Definitions	31
	1.2 Interpretation	55
	1.3 Notices and Other Communications	56
	1.4 Law and Language	58
	1.5 Priority of Documents	58
	1.6 Contract Agreement	59
	1.7 Assignment	60
	1.8 Care and Supply of Documents	60
	1.9 Errors in the Employer's Requirements	61
	1.10 Employer's Use of Contractor's Documents	62
	1.11 Contractor's Use of Employer's Documents	62
	1.12 Confidentiality	62
	1.13 Compliance with Laws	63
	1.14 Joint and Several Liability	63
	1.15 Limitation of Liability	64
	1.16 Contract Termination	65

2	The Employer	67
	2.1 Right of Access to the Site	67
	2.2 Assistance	67
	2.3 Employer's Personnel and Other Contractors	68
	2.4 Employer's Financial Arrangements	69
	2.5 Site Data and Items of Reference	69
	2.6 Employer-Supplied Materials and Employer's Equipment	70
3	The Engineer	73
	3.1 The Engineer	73
	3.2 Engineer's Duties and Authority	74
	3.3 The Engineer's Representative	76
	3.4 Delegation by the Engineer	76
	3.5 Engineer's Instructions	77
	3.6 Replacement of the Engineer	78
	3.7 Agreement or Determination	78
	3.8 Meetings	81
4	The Contractor	83
	4.1 Contractor's General Obligations	83
	4.2 Performance Security	84
	4.3 Contractor's Representative	87
	4.4 Subcontractors	88
	4.5 Nominated Subcontractors	89
	4.6 Co-operation	90
	4.7 Setting Out	91
	4.8 Health and Safety Obligations	91
	4.9 Quality Management and Compliance Verification Systems	92
	4.10 Use of Site Data	93
	4.11 Sufficiency of the Accepted Contract Amount	94
	4.12 Unforeseeable Physical Conditions	94
	4.13 Rights of Way and Facilities	96
	4.14 Avoidance of Interference	96
	4.15 Access Route	96
	4.16 Transport of Goods	96
	4.17 Contractor's Equipment	97
	4.18 Protection of the Environment	97
	4.19 Temporary Utilities	98
	4.20 Progress Reports	98
	4.21 Security of the Site	99
	4.22 Contractor's Operations on Site	99
	4.23 Archaeological and Geological Findings	99
	4.24 Milestones (optional)	100

5	Design	101
	5.1 General Design Obligations	101
	5.2 Contractor's Documents	102
	5.3 Contractor's Undertaking	104
	5.4 Technical Standards and Regulations	104
	5.5 Training	105
	5.6 As-Built Records	105
	5.7 Operation and Maintenance Manuals	105
	5.8 Design Error	106
6	Staff and Labour	107
	6.1 Engagement of Staff and Labour	107
	6.2 Rates of Wages and Conditions of Labour	107
	6.3 Recruitment of Persons	108
	6.4 Labour Laws	109
	6.5 Working Hours	109
	6.6 Facilities for Staff and Labour	109
	6.7 Health and Safety of Personnel	109
	6.8 Contractor's Superintendence	110
	6.9 Contractor's Personnel	110
	6.10 Contractor's Records	111
	6.11 Disorderly Conduct	111
	6.12 Key Personnel	111
7	Plant, Materials and Workmanship	115
	7.1 Manner of Execution	115
	7.2 Samples	116
	7.3 Inspection	116
	7.4 Testing by the Contractor	117
	7.5 Defects and Rejection	118
	7.6 Remedial Work	119
	7.7 Ownership of Plant and Materials	119
	7.8 Royalties	120
	7.9 Goods from Eligible Source	
	Countries (optional)	120
8	Commencement, Delays and Suspension	121
	8.1 Commencement of Works	121
	8.2 Time for Completion	122
	8.3 Programme	122
	8.4 Advance Warning	125
	8.5 Extension of Time for Completion	126
	8.6 Delays Caused by Authorities	129
	8.7 Rate of Progress	129
	8.8 Delay Damages	130
	8.9 Employer's Suspension	132
	8.10 Consequences of Employer's Suspension	133

	8.11	Payment for Plant and Materials after Employer's Suspension	134
	8.12	Prolonged Suspension	134
	8.13	Resumption of Work	136
9		Tests on Completion	137
	9.1	Contractor's Obligations	138
	9.2	Delayed Tests	139
	9.3	Retesting	140
	9.4	Failure to Pass Tests on Completion	140
10		Employer's Taking Over	143
	10.1	Taking Over the Works and Sections	144
	10.2	Taking Over Parts	146
	10.3	Interference with Tests on Completion	147
	10.4	Surfaces Requiring Reinstatement	148
11		Defects After Taking Over	149
	11.1	Completion of Outstanding Work and Remedying Defects	150
	11.2	Cost of Remedying Defects	151
	11.3	Extension of Defects Notification Period	152
	11.4	Failure to Remedy Defects	152
	11.5	Remedying of Defective Work Off Site	155
	11.6	Further Tests after Remedying Defects	155
	11.7	Right of Access after Taking Over	156
	11.8	Contractor to Search	156
	11.9	Performance Certificate	157
	11.10	Unfulfilled Obligations	158
	11.11	Clearance of Site	158
12		Tests after Completion	159
	12.1	Procedure for Tests after Completion	160
	12.2	Delayed Tests	161
	12.3	Retesting	162
	12.4	Failure to Pass Tests after Completion	162
13		Variations and Adjustments	165
	13.1	Right to Vary	165
	13.2	Value Engineering	167
	13.3	Variation Procedure	168
	13.4	Provisional Sums	169
	13.5	Daywork	169
	13.6	Adjustments for Changes in Laws	170
	13.7	Adjustments for Changes in Cost	172
14		Contract Price and Payment	175
	14.1	The Contract Price	177
	14.2	Advance Payment	178

	14.3 Application for Interim Payment	179
	14.4 Schedule of Payments	180
	14.5 Plant and Materials Intended for the Works	181
	14.6 Issue of IPC	181
	14.7 Payment	183
	14.8 Delayed Payment	184
	14.9 Release of Retention Money	184
	14.10 Statement at Completion	184
	14.11 Final Statement	185
	14.12 Discharge	185
	14.13 Issue of FPC	186
	14.14 Cessation of Employer's Liability	187
	14.15 Currencies of Payment	187
15	Termination by Employer	189
	15.1 Notice to Correct	190
	15.2 Termination for Contractor's Default	190
	15.3 Valuation after Termination for Contractor's Default	194
	15.4 Payment after Termination for Contractor's Default	194
	15.5 Termination for Employer's Convenience	195
	15.6 Valuation after Termination for Employer's Convenience	196
	15.7 Payment after Termination for Employer's Convenience	197
16	Suspension and Termination by Contractor	199
	16.1 Suspension by Contractor	199
	16.2 Termination by Contractor	200
	16.3 Contractor's Obligations after Termination	202
	16.4 Payment after Termination by Contractor	203
17	Care of the Works and Indemnities	205
	17.1 Responsibility for Care of the Works	205
	17.2 Liability for Care of the Works	206
	17.3 Intellectual and Industrial Property Rights	209
	17.4 Indemnities by Contractor	210
	17.5 Indemnities by Employer	211
	17.6 Shared Indemnities	212
18	Exceptional Events	213
	18.1 Exceptional Events	214
	18.2 Notice of an Exceptional Event	215
	18.3 Duty to Minimise Delay	216
	18.4 Consequences of an Exceptional Event	216
	18.5 Optional Termination	216
	18.6 Release from Performance Under the Law	217

19	Insurance	219
	19.1 General Requirements	220
	19.2 Insurance to be Provided by the Contractor	220
20	Employer's and Contractor's Claims	223
	20.1 Claims	225
	20.2 Claims for Payment and/or EOT	225
21	Disputes and Arbitration	229
	21.1 Constitution of the DAAB	231
	21.2 Failure to Appoint DAAB Member(s)	232
	21.3 Avoidance of Disputes	232
	21.4 Obtaining DAAB's Decision	232
	21.5 Amicable Settlement	235
	21.6 Arbitration	235
	21.7 Failure to Comply with DAAB's Decision	237
	21.8 No DAAB in Place	237
	APPENDICES	239
	Appendix A: Mini Guide	241
	The typical structure of a FIDIC-based contract	241
	Overview of the Employer's main risks and the Contractor's corresponding entitlements	244
	Appendix B: Special Provisions	247
	General observations	247
	Drafting style	247
	The dos and don'ts of FIDIC drafting	249
	Selected Special Provisions to consider	251
	Index	267

About the author

Jakob B Sørensen has been involved in construction projects for more than 35 years, and in more than 50 countries worldwide, covering erection, maintenance, operation, refurbishment and decommissioning of especially technical facilities: power plants (conventional as well as renewable), airports, manufacturing and production facilities, breweries, automated warehouses, dairy plants, water purification plants, power distribution, gas distribution, IT and telecommunication systems, etc.

Jakob has represented employers and owners, contractors and subcontractors, suppliers, engineers, financing institutions and advisors.

From 1988 until 2011, Jakob held a position as associate professor of law at Aarhus University, Denmark; from 1988 to 1995 in contract law, from 1995 to 2009 in international trade and finance law and, finally, from 2008 to 2011 in international construction law. In 2015 and 2017, Jakob acted as friendly reviewer for FIDIC; from the initial drafts of the *Conditions of Contract*, leading up to the 2017 editions of the FIDIC forms, and in 2020 Jakob acted as a friendly reviewer for FIDIC on the *Short Form of Contract* 2nd edition (2021 *Green Book*).

In 2019, ICE Publishing released the first version of Jakob's companions to the 2017 editions of the three full-length FIDIC *Conditions*: the *Red*, *Yellow* and *Silver Books*. The companions for the full-length FIDIC *Conditions* were all revised in 2024, following FIDIC's updates of the *Conditions*. In 2022, ICE Publishing released Jakob's companion to the FIDIC *Short Form*, 2nd edition (2021 *Green Book*).

Jakob has been involved in construction projects based on a variety of individually developed (bespoke) contracts, as well as contracts based on standard forms (ICE/NEC, Orgalime, ICC, IEE, IChemE, Joint Contracts Tribunal, etc.). Since the late 1980s, Jakob has been working with the FIDIC forms of contracts, initially with the *Conditions of Contract for Electrical and Mechanical Works* (3rd ed., 1988 – the original *Yellow Book*) and the *Conditions of Contract for Works of Civil Engineering Construction* (4th ed., 1989 – the *Red Book*), and later also the *Conditions of Contract for Design – Build and Turnkey* (1st ed., 1995 – the *Orange Book*). Jakob has been

involved in projects utilising the FIDIC 1999 standard forms, as well as the subsequently released *Conditions of Contract for Design, Build and Operate Projects* (1st ed., 2008 – the *Gold Book*), in many projects, worldwide, and, since their release in 2017, Jakob has been involved in several large-scale international construction projects utilising the 2017 editions of the FIDIC *Conditions of Contract*. In all, over the past five decades, Jakob has been involved in more than 200 international construction projects based on the FIDIC forms and more than 400 in total.

In 2007, Jakob was certified as mediator by the Danish Bar & Law Society following studies and training in London and Copenhagen. Today, Jakob's main areas of work are advisory work in relation to complex contracts (international construction and high-tech and ICT projects) and dispute prevention and resolution.

List of abbreviations

AACE	AACE International, an engineering company
BIM	Building Information Modelling
CCIP	Contractor-Controlled Insurance Programme
CONS	<i>Conditions of Contract for Construction</i>
DAA	Dispute Avoidance/Adjudication
DAAB	Dispute Avoidance/Adjudication Board
DAB	Dispute Adjudication Board
DBO	<i>Conditions of Contract for Design, Build and Operate Projects</i>
DNP	Defects Notification Period
EIC	European International Contractors e.V.
EOT	Extension of Time
EPC	engineering, procurement and construction
FIDIC	Fédération Internationale des Ingénieurs-Conseils
FPC	Final Payment Certificate
GC	General Conditions
H&S	health and safety
ICE	Institution of Civil Engineers
ILO	International Labour Organization
IPC	Interim Payment Certificate
IPR	intellectual property rights
JV	joint venture
MDB	multilateral development banks
NEC	New Engineering Contract
NOD	Notice of Dissatisfaction
O&M	operation and maintenance
OCIP	Owner-Controlled Insurance Programme
<i>P&DB</i>	<i>Conditions of Contract for Plant & Design Build</i>
QM	quality management
QMS	quality management system
US	United States (adj.)
USA	United States of America (noun)
USD	US dollars

This page intentionally left blank

INTRODUCTION

This page intentionally left blank

Jakob B Sørensen

ISBN 978-1-83608-167-8

<https://doi.org/10.1108/978-1-83608-164-720242001>

Emerald Publishing Limited: All rights reserved

1 About this Companion

1.1 Purpose

In 2017, FIDIC (Fédération Internationale des Ingénieurs-Conseils) released updated versions of three of FIDIC's much-used standard *Conditions of Contract*:

- *Conditions of Contract for Construction (the Red Book)*;
- *Conditions of Contract for Plant & Design Build (the Yellow Book)*;
- *Conditions of Contract for EPC/Turnkey Projects (the Silver Book)*.

Further, in 2021, FIDIC released the updated version of the *Short Form of Contract*, 2nd edition (2021 *Green Book*), a substantially shortened version of the full-length *Conditions* targeted for small works or contracts with a value of about USD 10.0 million or less. The USD 10.0 million threshold is only indicative; if the work is of a (perceived) low risk level or if the parties wish to have a contract with simple use, i.e. projects that do not require significant contract administration and management, the *Short Form* can be used for projects with a (much) higher value. See Section 3.1.2 of this Introduction ('Which FIDIC form to use?') on the choice between the various FIDIC forms, including the *Short Form (Green Book)*.

This is a practical handbook or a companion. The intention is to provide practical assistance to users of the FIDIC *Conditions of Contract*. This companion will focus on the 2017 *Conditions of Contract for Plant & Design Build*, or the *Yellow Book*, as reprinted in 2022 'with amendments'. Similar books on the 2017 *Conditions of Contract for Construction (the Red Book)*, the 2017 *Conditions of Contract for EPC/Turnkey Projects (the Silver Book)* and the 2021 *Short Form of Contract (the Green Book)* are available.

This is not a legal textbook designed to answer any question on the understanding or interpretation of the FIDIC *Conditions* and, in general, it includes very few references to specific national acts, case law or quotes from other commentators. Also, this companion does not constitute or replace legal advice and is offered only for general guidance and inspiration. The reader is encouraged to seek relevant expert assistance in drafting any contract, FIDIC-based or otherwise.

Since their release in 2017, FIDIC has issued several corrective notices, first in December 2018, then in June 2019 and, finally, in November 2022. All amendments can be found in the FIDIC publication *Amendments to the FIDIC Conditions of Contract*, downloadable from

the fidic.org website. All amendments have been incorporated into the pdf versions of the *Conditions* as published by FIDIC, and, consequently, any new pdf versions received from FIDIC will have the amendments incorporated (if it says ‘*Reprinted 2022 with amendments*’ on the cover page; the ISBN reference is the same). In this companion, the 2022 amendment publication with the consolidated amendments is referred to as the ‘Amendments’.

This companion is updated to accommodate for the Amendments and to reflect industry experience gained from the practical use of the 2017 editions since their release.

1.2 Structure and Contents

This companion has three main sections:

- **Introduction.** An introduction to the companion, general observations on (international) construction contracts and inspiration for further reading.
- **General Conditions.** A commentary to each of the 21 Clauses of the 2017 FIDIC *Conditions of Contract*, 2nd edition, with the *Conditions of Contract for Plant & Design Build* (the *Yellow Book*) as a basis. Each commentary includes a brief introduction to the Clause, comments and observations and suggested additions or adjustments for consideration.
- **Appendices.** A mini guide to the use of the FIDIC *Conditions*, including an overview of the main Employer’s risks (and the Contractor’s corresponding entitlements) and a short guide to preparing Particular Conditions, especially Part B (Special Provisions), including suggested modifications and additions to the General Conditions.

A copy of the FIDIC *Conditions* as published by FIDIC is not included herein but it is recommended that you always keep an officially licensed version of the *Conditions* at hand when using this companion. Remember, royalties received by FIDIC for the use and dissemination of FIDIC’s standard forms help fund FIDIC’s many commendable activities.

1.3 Background and References

When referring to the FIDIC 2017 *Conditions of Contract for Plant & Design Build*, in this companion ‘General Conditions’ or the abbreviations ‘FIDIC GC’ or just ‘GC’ are used, unless the context requires a more specific reference. ‘Conditions of Contract’ is a defined term, meaning the General Conditions as published by FIDIC as amended by the Particular Conditions drafted for the specific use. ‘General Conditions’ and the abbreviations ‘FIDIC GC’ and ‘GC’ are then references to the unamended General Conditions as published by FIDIC (as amended by the Amendments).

The printed and pdf versions of the General Conditions released by FIDIC contain several additional sections, such as templates for several of the documents required for the Contract (e.g. Contract Agreement, Contract Data, Letter of Tender, Letter of Acceptance, etc.), as well as templates for other documents, such as securities. In addition to these highly recommendable templates, the official, printed and pdf versions of the GC also include a guide (*Guidance for the Preparation of Particular Conditions*); in this companion, this guide is generally

referred to by its full name or just as ‘the Guidance’. The Guidance is not to be mistaken with the *FIDIC 2017 Contracts Guide* (2nd ed., 2022), which is a comprehensive guide to the use of the *Conditions*, published by FIDIC in 2022; the *FIDIC 2017 Contracts Guide (2022)* is herein referred to as ‘the Guide’. See also Chapter 4 of this Introduction.

This companion is not endorsed by FIDIC, and the mistakes herein are entirely the author’s own (unless otherwise indicated).

This page intentionally left blank

Jakob B Sørensen

ISBN 978-1-83608-167-8

<https://doi.org/10.1108/978-1-83608-164-720242003>

Emerald Publishing Limited: All rights reserved

2 Construction Projects

2.1 Preparing International Contracts

When preparing for a project with international dimensions, special concerns arise. The international dimension could be, e.g., that the Contractor is from a country different from where the Employer and the Site are, or the project is situated in a different country from the Employer, or maybe the Site is in one country, the Employer from another country, the Contractor from a third country and the Engineer from yet another country. When preparing contracts with international dimensions, a few points should be noted.

Firstly, the applicable law. Even when the contract is a FIDIC contract, the interpretation and effect of the contract depends heavily on the underlying legal regime, including the applicable law (often referred to as ‘the background law’); thus, it is not safe to assume that because the contract is a FIDIC contract, everything is addressed in the General Conditions. Some examples to illustrate where the GC will be supplemented by the applicable law:

- When is a Notice being ‘*unreasonably withheld or delayed*’ under Sub-Clause 1.3 [Notices and Other Communications]?
- What is the ‘*reasonable assistance*’ the Employer is required to provide to the Contractor under Sub-Clause 2.2 [Assistance]?
- What constitutes a ‘*material change*’ under the 2nd paragraph of Sub-Clause 2.4 [Employer’s Financial Arrangements]?

When not conclusively settled by the *Conditions of Contract*, it is for the Parties (and the Engineer, the Dispute Avoidance/Adjudication Board (DAAB) and, ultimately, the arbitrators) to establish what this means. Eventually, the arbitrators must look to the background law to seek guidance on the correct meaning of these terms. Because national law differs from country to country (sometimes substantially), an understanding of the applicable law and the legal environment of the contract and the project in general is required. Even between systems of law that are quite closely related, like, e.g. the Nordic countries, substantial differences exist. To fully understand the contract and how it works, you need to understand the legal system governing the contract.

Secondly, language. Sub-Clause 1.4 [Law and Language] of the *Conditions* states that the ruling language shall be stated in the Contract Data (if no language is stated, then the ruling language is ‘*the language of these Conditions*’). When you prepare contracts – especially if the contract is drafted in a language different from your native language – several issues arise.

Do you master the ruling language sufficiently to understand what is already in the GC and to draft additions or amendments to the *Conditions* to cater for project-specific needs without meddling with the integrity of the *Conditions*? If not, stay away, because the contract that you actually draft may differ substantially from what you believe is in it. Be especially aware of ‘false friends’, i.e. words that sound and look the same in two languages but have completely different meanings. As an example, the Swedish and Danish languages are very closely related but a few words have completely different meanings in the two languages: the word ‘gratis’ means free or without cost in Danish, whereas in everyday Swedish it is a salute, usually meaning ‘Congratulations!’ Closely related to this issue are words that – broadly speaking – do have the same general meaning but with subtle differences, e.g. the word ‘guaranty’, which in English law has one meaning and certain well-established legal implications but the equivalent word in German (‘Garantie’) has a different meaning and different legal implications under German law. If the contract is governed by German law but with English as the ruling language (or the other way around), is it then the German legal interpretation of the term that applies or is it the English? FIDIC has made a huge effort to eliminate – or at least reduce – such issues, for instance by abandoning the use of some of the strict, legal terms with substantially different implications; e.g., ‘Force Majeure’ has been replaced with ‘Exceptional Events’ (now in Clause 18). Nevertheless, these are real issues you must be aware of when preparing contracts with an international dimension.

Thirdly, understand and respect cultural differences. Methodologies or ways of working that function very well in one cultural setting may work completely differently and perhaps even be counterproductive in another setting.

Lastly, preparing construction contracts is a multi-disciplinary exercise and so is the execution and completion of the project. Not all disciplines are equally important, but they are all important. If the basic design is rubbish, it does not matter if the contractor is skilled, and the contract is perfect. If the contractor is incompetent, it does not matter if the design and the contract are perfect. If the engineer is incompetent, little else matters. Each contributor to the project should understand and respect the competences and contributions from the other disciplines.

Numerous publications will give you valuable insight into how to draft contracts but, like tennis, golf, sailing, trench digging, welding, embroidery and numerous other activities, you will not master the craft if you only study – it takes practice.

2.2 Construction Contracts

2.2.1 Overview

The main key to drafting contracts is proper prior planning and preparation; this principle is often abbreviated as the 5P, 6P or 7P (or even 10P or 12P) principle. Allegedly, the P principle is of army origin (US or British): ‘*Proper Planning (and Preparation) Prevents (Piss-) Poor Performance*’.

In addition, when preparing for a project, **always start with the ‘Why’**. What are the objectives and purpose of the project? Why is it being initiated? What do the interested parties wish to accomplish? When the objectives have been identified and presented and are clear to all,