

菲迪克(FIDIC)文献译丛



中英文对照本

国际咨询工程师联合会 编译  
中国工程咨询协会

# 简明合同格式

## Short Form of Contract

1999年第1版

协议书  
通用条件  
裁决规则  
指南注释  
Agreement  
General Conditions  
Rules for Adjudication  
Notes for Guidance



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国际咨询工程师联合会 编译  
中国工程咨询协会

吕文学 陈永强 翻译  
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(1999 年第 1 版)  
(中英文对照本)

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机械工业出版社



本《简明合同格式》(中文版)是对照国际咨询工程师联合会(FIDIC 即非迪克)编写的最新英文版本,由 FIDIC 在中国的成员协会——中国工程咨询协会组织专家编译定稿。

《简明合同格式》是一本全新的合同条件。本合同条件是一个简明、灵活的文件,包括所有主要的商务条款,可用于多种管理方式的各类工程项目和建筑工程。

本书内容包括简明合同的通用条件和专用条件,附有裁决规则、指南注释。

本书推荐用于资本金额较小的建筑或工程项目。根据项目的类型和具体情况,这种格式也可用于较大资本金额的合同,特别是适用于简单或重复性的工程或工期较短的工程。这种合同的通常情况是,由承包商按照雇主或其代表(如有时)提供的设计进行工程施工,但这种格式也可适用于部分或全部是,由承包商设计的土木、机械、电气和(或)建筑物的合同。

读者对象:工程咨询单位,从事投资、金融和工程项目管理的部门和组织、各类项目业主、建筑施工监理企业、工程承包企业、环保企业、会计/律师事务所、保险公司以及有关高等院校等单位 and 人员。

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Peter van der TOGT  
Publications manager

[译文]

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出版经理: Peter van der TOGT



**FIDIC** is the French acronym for the International Federation of Consulting Engineers.

**F**IDIC was founded in 1913 by three national associations of consulting engineers within Europe. The objectives of forming the federation were to promote in common the professional interests of the member associations and to disseminate information of interest to members of its component national associations.

**T**oday FIDIC membership numbers more than 60 countries from all parts of the globe and the federation represents most of the private practice consulting engineers in the world.

**F**IDIC arranges seminars, conferences and other events in the furtherance of its goals: maintenance of high ethical and professional standards; exchange of views and information; discussion of problems of mutual concern among member associations and representatives of the international financial institutions; and development of the consulting engineering industry in developing countries.

**F**IDIC publications include proceedings of various conferences and seminars, information for consulting engineers, project owners and international development agencies, standard pre-qualification forms, contract documents and client/consultant agreements. They are available from the secretariat in Switzerland.



FIDIC (中译菲迪克)是国际咨询工程师联合会的法文首字母缩写。

菲迪克(FIDIC)是由欧洲三个国家的咨询工程师协会于 1913 年成立的。组建联合会的目的是共同促进成员协会的职业利益，以及向其成员协会会员传播有益信息。

今天，菲迪克(FIDIC)已有来自全球各地 60 多个国家的成员协会，代表着世界上大多数私人执业的咨询工程师。

菲迪克(FIDIC)举办各类研讨会、会议及其他活动，以促进其目标：维护高的道德和职业标准；交流观点和信息；讨论成员协会和国际金融机构代表共同关心的问题，以及发展中国家工程咨询业的发展。

菲迪克(FIDIC)的出版物包括：各类会议和研讨会的文件，为咨询工程师、项目业主和国际开发机构提供的信息，资格预审标准格式，合同文件以及客户与工程咨询单位协议书。这些资料可以从设在瑞士的菲迪克(FIDIC)秘书处得到。

# “菲迪克(FIDIC)文献译丛” 出版前言

世界工程咨询业已有上百年的发展历史，成为各国投资建设领域重要的智力服务行业。国际咨询工程师联合会(按其法文缩写 FIDIC, 通称菲迪克)成立已有 80 多年，是国际工程咨询业的权威性行业组织，与世界银行等国际金融组织有着密切的联系。菲迪克的各种文献出版物，包括各种合同、协议标准范本、各项工作指南、以及工作惯例建议等，得到世界各有关组织的广泛承认和实施，是工程咨询行业的重要指导性文献。

我国工程咨询业是改革开放以来，在原有工程设计和建设管理队伍基础上发展起来的，承担着为各级投资决策部门和各类建设项目提供战略规划、项目决策、工程设计、以及项目实施管理等投资建设全过程的咨询服务。今后随着我国建设事业的发展，项目的决策与实施要求提供咨询服务的工作量将会大量增长，咨询服务质量要求也将越来越高。特别是我国已加入世界贸易组织(WTO)，投资建设领域既有新的机遇，也有新的挑战。借鉴国外工程咨询的成功经验，努力提高我国工程咨询服务水平，已成为当务之急。

中国工程咨询协会于 1996 年正式加入菲迪克组织，并取得在我国翻译出版菲迪克文献的授权。为了系统介绍菲迪克有关出版物，协会成立了菲迪克文献编译委员会，将以“菲迪克文献译丛”形式，陆续翻译出版菲迪克有关文献。

我们相信“译丛”的出版，将为我国广大工程咨询单位和人员、从事投资、金融和工程项目管理的部门和组织、各类项目业主、建筑施工监理企业、工程承包企业、环保企业、会计/律师事务所、保险公司以及有关高等院校学习国际经验提供重要帮助。

中国工程咨询协会

# 编者的话

本书由国际咨询工程师联合会(FIDIC 即菲迪克)编写,是 1999 年出版的新合同标准格式第 1 版。《简明合同格式》是一本全新的合同条件。本合同条件是一个简明、灵活的文件,包括所有主要的商务条款,可用于多种管理方式的各类工程项目和建筑工程。1998 年菲迪克在成员协会中推出了试用本,在全世界范围内收集建议和意见,并在一些国家进行试点使用,在经过 1 年多的试用后,于 1999 年才正式首次出版了《简明合同格式》。

希望此译本的出版,对我国从事工程咨询、投资、金融和项目管理的部门和组织、各类项目业主、建筑施工监理企业、工程承包企业、环保企业、会计/律师事务所、保险公司以及有关高等院校等人员在学习和运用菲迪克合同条件,有效地解决在国际、国内工程咨询和工程承包活动中的合同管理问题,更好地开拓国内外工程咨询和工程承包市场,促进我国工程咨询业与国际惯例接轨,推动我国工程咨询事业的发展会有所帮助。

翻译过程中,我们虽然尽力想使译文准确通顺,但限于专业知识与语言水平,译文中可能出现不妥乃至错误之处,敬请读者指正。

本书由吕文学、陈永强翻译,唐萍校译,王川、徐礼章、唐萍审校。

中国工程咨询协会 FIDIC 文献编译委员会





简 明 合 同 格 式  
SHORT FORM of Contract

协议书  
AGREEMENT

通用条件  
GENERAL CONDITIONS

裁决规则  
RULES FOR ADJUDICATION

指南注释  
NOTES FOR GUIDANCE

国 际 咨 询 工 程 师 联 合 会

FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS  
INTERNATIONAL FEDERATION OF CONSULTING ENGINEERS  
INTERNATIONALE VEREINIGUNG BERATENDER INGENIEURE  
FEDERACION INTERNACIONAL DE INGENIEROS CONSOLTORES



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FIDIC wishes to record its appreciation of the time and effort devoted by all the above.

The ultimate decision on the form and content of the document rests with FIDIC.

# 致谢

国际咨询工程师联合会(FIDIC 即菲迪克)对其工作组的下列成员特致感谢: 英国 WS Atkins 的 Philip Jenkinson (工作组组长); 英国 Mouchel 的 AEJ (Tony) Sanders 和英国 Corbett & Co 的 Edward Corbett。由英国 GIBB Ltd 的 Peter L Booen 联系其他仍工作的工作组。

编写工作是在 FIDIC 合同委员会全面指导下进行, 合同委员会由下列人员组成: 英国咨询工程师 John B Bowcock (主席); 瑞典 SwedPower 的 Michael Mortimer - Hawkins; 德国 Schmidt Reuter Partner 的 Axel - Volkmar Jaeger 和英国咨询工程师 KB (Tony) Norris (特别顾问)。

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菲迪克对所有上述人员和组织所奉献的时间和精力表示感谢。

对该文件的格式和内容的最终决定由菲迪克负责。

## FOREWORD

These Conditions of Contract have been prepared by the Fédération Internationale des Ingénieurs-Conseils (FIDIC) and are recommended for engineering and building work of relatively small capital value. However, depending on the type of work and the circumstances, the Conditions may be suitable for contracts of greater value. They are considered most likely to be suitable for fairly simple or repetitive work or work of short duration without the need for specialist sub-contracts.

The main aim has been to produce a straightforward flexible document which includes all essential commercial provisions and which may be used for all types of engineering and building work with a variety of administrative arrangements. Under the usual arrangements for this type of contract, the Contractor constructs the Works in accordance with design provided by the Employer or by his representative (if any). However, this form may also be suitable for contracts which include, or wholly comprise, contractor-designed civil, mechanical and/or electrical works.

In addition, the Employer has a choice of valuation methods. Furthermore, although there is no reference to an impartial Engineer, the Employer may appoint an independent Engineer to act impartially, should he wish to do so.

The form is recommended for general use, though modifications may be required in some jurisdictions. FIDIC considers the official and authentic text to be the version in the English language.

The intention is that all necessary information should be provided in the Appendix to the Agreement, the latter incorporating the tenderer's offer and its acceptance in one simple document. The General Conditions are expected to cover the majority of contracts. Nevertheless, users will be able to introduce Particular Conditions if they wish, to cater for special cases or circumstances. The General Conditions and the Particular Conditions will together comprise the Conditions governing the rights and obligations of the parties.

To assist in the preparation of tender documents using these Conditions, Notes for Guidance are included. These Notes will not become one of the documents forming the Contract. Finally, applicable Rules for Adjudication are also included.

The attention of users is drawn to the FIDIC publication "Tendering Procedure", which presents a systematic approach to the selection of tenderers and the obtaining and evaluation of tenders.

# 前言

**国际咨询工程师联合会(FIDIC 菲迪克)**已编写**本合同条件**，建议用于投资金额相对较小的工程项目和建筑工程。根据工程的类型和具体情况，也可适用于金额较大的合同。**本条件**可能最适用于不需进行专业分包的相当简单或重复性的工程或工期短的工程。

主要目的是编出一个简明、灵活的文件，包括所有主要的商务条款，可用于多种管理方式的各类工程项目和建筑工程。这种**合同**的通常情况是，由**承包商**按照**雇主**或其代表(如果有)提供的设计实施**工程**。这种格式也可适用于包括或全部由**承包商**设计的土木、机械和/或电气工程的合同。

另外，**雇主**可以选择估价方法。还有，尽管没有提到公正的**工程师**，如果**雇主**想聘用一个独立的**工程师**公平行事，他可以这么做。

建议本格式可供通用，但在某些司法管辖区可能需要一些修改。菲迪克认为正式的和权威性的文本应是英文版本。

编写意图是所有必要的信息应在**协议书**的**附录**中给出，**协议书**把**投标人的**报价和**雇主的**接受编入一个简单的文件。**通用条件**应能覆盖多数合同，如果用户需要，他们可以加入**专用条件**以适应特定情况或条件的需要。**通用条件**和**专用条件**将一起构成决定各方的权利和义务的**条件**。

为了有助于使用**本条件**编制招投标文件，还包括了**指南注释**。这些**注释**不是组成**合同**的一个文件。最后，还列入了适用的**裁决规则**。

用户请注意菲迪克(FIDIC)编写出版的《**招标程序**》，它提供了选择投标人、招标和评标的系统方法。



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# Agreement

The Employer is \_\_\_\_\_ of

The Contractor is \_\_\_\_\_ of

The Employer desires the execution of certain Works known as \_\_\_\_\_

## OFFER

The Contractor has examined the documents listed in the Appendix which forms part of this Agreement and offers to execute the Works in conformity with the Contract for the sum of

\_\_\_\_\_ (in words)

\_\_\_\_\_ ( in figures ) ( \_\_\_\_\_ )

or such other sum as may be ascertained under the Contract.

This offer, of which the Contractor has submitted two signed originals, may be accepted by the Employer by signing and returning one original of this document to the Contractor before

\_\_\_\_\_ (date)

The Contractor understands that the Employer is not bound to accept the lowest or any offer received for the Works.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Authorised to sign on behalf of (organization name): \_\_\_\_\_

Capacity: \_\_\_\_\_

## ACCEPTANCE

The Employer has by signing below, accepted the Contractor's offer and agrees that in consideration for the execution of the Works by the Contractor, the Employer shall pay the Contractor in accordance with the Contract. This Agreement comes into effect on the date when the Contractor receives one original of this document signed by the Employer.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Authorised to sign on behalf of (organization name): \_\_\_\_\_

Capacity: \_\_\_\_\_

# 协 议 书

雇主是：\_\_\_\_\_的  
\_\_\_\_\_

承包商是：\_\_\_\_\_的  
\_\_\_\_\_

雇主要实施的工程名称为\_\_\_\_\_  
\_\_\_\_\_。

# 报 价

承包商已研究了构成本协议书一部分的列于附录中的文件，按照合同实施该工程所报价格为\_\_\_\_\_（大 写）\_\_\_\_\_（小 写）（\_\_\_\_\_）或根据合同可能确定的此类其他总额。

承包商已提交两份签字原件的报价，雇主可通过签字和将本文件一份原件于\_\_\_\_\_（日期）前返还给承包商予以接受。

承包商理解雇主不一定必须接受收到的对该工程的最低的或任何报价。

签字：_____	日期：_____
姓名：_____	受权签字代表：_____（组织名称）
职务：_____	_____

# 接 受

雇主通过以下签字接受承包商的报价，并鉴于承包商对工程的实施同意应按照合同向承包商付款。本协议书从承包商收到雇主签字的本文件一份原件的日期开始生效。

签字：_____	日期：_____
姓名：_____	受权签字代表：_____（组织名称）
职务：_____	_____

APPENDIX

This Appendix forms part of the Agreement.

[ Note: with the exception of the items for which the Employer's requirements have been inserted, the Contractor shall complete the following information before submitting his offer. ]

Item	Sub-Clause	Data
Documents forming the Contract listed in the order of priority . . . 1.1.1		
Document (delete if not applicable)		Document Identification
(a)	The Agreement . . . . .	
(b)	Particular Conditions . . . .	
(c)	General Conditions . . . . .	
(d)	The Specification . . . . .	
(e)	The Drawings . . . . .	
(f)	The Contractor's tendered design	
(g)	The bill of quantities . . . . .	
(h)	. . . . .	
(i)	. . . . .	
Time for Completion . . . . .	1.1.9 . . . .	_____ days
Law of the Contract . . . . .	1.4 . . . . .	Law of the Country* _____
Language . . . . .	1.5 . . . . .	_____
Provision of Site . . . . .	2.1 . . . . .	On the Commencement Date* _____
Authorised person . . . . .	3.1 . . . . .	_____
Name and address of Employer's representative (if known) . . . . .	3.2 . . . . .	_____
Performance security (if any):		
Amount . . . . .	4.4 . . . . .	_____
Form . . . . .	4.4 . . . . .	_____ (details)

\* Employer to amend as appropriate

# 附 录

本附录构成协议书的一部分。

(注：除已填入雇主要求的项目外，承包商应在提交其报价前填写下列内容)

项目	条款号	内容
按优先次序列出构成合同的文件： .....	1.1.1	
文件(如不适用可删除)：		文件标题
(a)协议书 .....		_____
(b)专用条件 .....		_____
(c)通用条件 .....		_____
(d)规范 .....		_____
(e)图纸 .....		_____
(f)承包商的投标设计		_____
(g)工程量表 .....		_____
(h) .....		_____
(i) .....		_____
竣工时间 .....	1.1.9 .....	_____天
合同适用法律 .....	1.4 .....	项目所在国的法律*
语言 .....	1.5 .....	_____
现场的提供 .....	2.1 .....	在开工日期*_____
授权人员 .....	3.1 .....	_____
雇主代表的姓名和地址(如知道) .....	3.2 .....	_____
履约担保(如果有) .....		_____
金额 .....	4.4 .....	_____
格式 .....	4.4 .....	_____ (细节)

\* 表示适当时由雇主修改。

Item	Sub-Clause	Data
Requirements for Contractor's design (if any) .....	5.1 .....	Specification Clause No's _____ _____
Programme:		
Time for submission .....	7.2 .....	Within 14 days* of the Commence- ment Date.
Form of programme .....	7.2 .....	_____ _____
Amount payable due to failure to complete .....	7.4 .....	_____ per day up to a maximum of 10%* of sum stated in the Agreement
Period for notifying defects ....	9.1 & 11.5	365 days* calculated from the date stated in the notice under Sub-Clause 8.2
Variation procedure		
Daywork rates .....	10.2 .....	_____ _____ (details)
Valuation of the Works*		
Lump sum Price .....	11.1 .....	_____ (details)
Lump sum price with schedules of rates .....	11.1 .....	_____ (details)
Lump sum price with bill of quantities .....	11.1 .....	_____ (details)
Remeasurement with tender bill of quantities .....	11.1 .....	_____ (details)
Cost reimbursable .....	11.1 .....	_____ (details)
Percentage of value of Materials and Plant .....	11.2 .....	Materials _____ 80%*  Plant _____ 90%*

*\* Employer to amend as appropriate*

项目	条款号	内容
对 <b>承包商</b> 设计的要求(如果有) .....	5.1 .....	规范条款号 .....
进度计划:		
提交时间 .....	7.2 .....	开工日期后 14* 天内
进度计划的格式 .....	7.2 .....	.....
由于未能完成工程应偿付金额 .....	7.4 .....	每天 ....., 不超过协议书注明总额的 10% *
缺陷通知期限 .....	9.1&	从根据第 8.2 款发出的通知中注明的日期开始计算 365* 天内
变更程序	11.5	
计日工作费率 .....	10.2 .....	..... ..... (细目)
工程的估价:		
总额价格 .....	11.1 .....	..... (细目)
总额价格附费率表 .....	11.1 .....	..... (细目)
总额价格附工程量表 .....	11.1 .....	..... (细目)
用投标工程量表再测量 .....	11.1 .....	..... (细目)
可补偿费用 .....	11.1 .....	..... (细目)
材料和生产设备价值的百分比 .....	11.2 .....	材料 ..... 80% * 生产设备 ..... 90% *

\* 表示适当时由雇主修改。



Item	Sub-Clause	Data
Percentage of retention . . . . .	11.3 . . . . .	_____ 5%
Currency of payment . . . . .	11.7 . . . . .	_____
Rate of interest . . . . .	11.8 . . . . .	_____ % per annum
Insurances . . . . .	14.1	

Type of cover*	Amount of cover*	Exclusions*
The Works, Materials, Plant and fees	The sum stated in the Agreement plus 15%	_____
Contractor's Equipment	Full replacement cost	_____
Third Party injury to persons and damage to property	_____	_____
Workers	_____	_____
Other cover*	_____	_____

Arbitration

Rules . . . . .	15.3 . . . . .	UNCITRAL Arbitration Rules* _____ (details)
Appointing authority . . . . .	15.3 . . . . .	President of FIDIC or his nominee* _____ (details)
Place of Arbitration . . . . .	15.3 . . . . .	The Country* _____

*\*Employer to amend as appropriate*

项目	条款号	内容
保留金百分比 .....	11.3 .....	5%
支付货币 .....	11.7 .....	
利率 .....	11.8 .....	每年 %
保险 .....	14.1 .....	

保险类型	保险金额	除外责任
工程、材料、生产设备和费用	协议书中注明的总额加 15 %	
承包商设备	全部重置成本	
第三方人身伤害和财产损坏		
工人		
其他险 *		

仲裁

规则 .....	15.3 .....	联合国国际贸易法委员会仲裁规则* ( 细节 )
负责任命机构 .....	15.3 .....	菲迪克(FIDIC)的主席或他任命的人* ( 细节 )
仲裁地点 .....	15.3 .....	项目所在国 *

\* 表示适当时由雇主修改。

AGREEMENT

# General Conditions

GENERAL CONDITIONS

## 1 General Provisions

ADJUDICATION

GUIDANCE

### 1.1

Definitions

In the Contract as defined below, the words and expressions defined shall have the following meanings assigned to them, except where the context requires otherwise:

The Contract

- 1.1.1 "**Contract**" means the Agreement and the other documents listed in the Appendix.
- 1.1.2 "**Specification**" means the document as listed in the Appendix, including Employer's requirements in respect of design to be carried out by the Contractor, if any, and any Variation to such document.
- 1.1.3 "**Drawings**" means the Employer's drawings of the Works as listed in the Appendix, and any Variation to such drawings.

Persons

- 1.1.4 "**Employer**" means the person named in the Agreement and the legal successors in title to this person, but not (except with the consent of the Contractor) any assignee.
- 1.1.5 "**Contractor**" means the person named in the Agreement and the legal successors in title to this person, but not (except with the consent of the Employer) any assignee.
- 1.1.6 "**Party**" means either the Employer or the Contractor.

Dates, Times and Periods

- 1.1.7 "**Commencement Date**" means the date 14 days after the date the Agreement comes into effect or any other date agreed between the Parties.
- 1.1.8 "**day**" means a calendar day.
- 1.1.9 "**Time for Completion**" means the time for completing the Works as stated in the Appendix (or as extended under Sub-Clause 7.3), calculated from the Commencement Date.

Money and Payments

- 1.1.10 "**Cost**" means all expenditure properly incurred (or to be incurred ) by the Contractor, whether on or off the Site, including overheads and similar charges, but does not include profit.

Other Definitions

- 1.1.11 "**Contractor's Equipment**" means all apparatus, machinery, vehicles, facilities and other things required for the execution of the Works but does not include Materials or Plant.
- 1.1.12 "**Country**" means the country in which the Site is located.
- 1.1.13 "**Employer's Liabilities**" means those matters listed in Sub-Clause 6.1.
- 1.1.14 "**Force Majeure**" means an exceptional event or circumstance: which is beyond a Party's control; which such Party could not reasonably have

# 通用条件

## 1 一般规定

1.1	
定义	在下文定义 <b>的合同</b> 中，除上下文另有要求外，定义所列的词语或措辞应具有下列给定的含义：
合同	<p>1.1.1 “<b>合同</b>”系指<b>协议书</b>以及<b>附录</b>中所列的其他文件。</p> <p>1.1.2 “<b>规范</b>”系指<b>附录</b>中所列的，包括关于要由<b>承包商</b>进行的设计的<b>雇主</b>要求的文件(如果有)，以及对此类文件的任何<b>变更</b>。</p> <p>1.1.3 “<b>图纸</b>”系指<b>附录</b>中所列<b>雇主</b>的工程图纸，以及对此类图纸的任何<b>变更</b>。</p>
当事人	<p>1.1.4 “<b>雇主</b>”系指<b>协议书</b>中指名的当事人和取得此当事人资格的合法继承人，但不指其任何受让人(除经<b>承包商</b>同意外)。</p> <p>1.1.5 “<b>承包商</b>”系指<b>协议书</b>中指名的当事人和取得此当事人资格的合法继承人，但不指其任何受让人(除经<b>雇主</b>同意外)。</p> <p>1.1.6 “<b>当事方</b>”指<b>雇主</b>或<b>承包商</b>。</p>
日期、时间和期限	<p>1.1.7 “<b>开工日期</b>”系指<b>协议书</b>生效日期后第 14 天的日期，或双方同意的其他任何日期。</p> <p>1.1.8 “<b>天</b>”指日历日</p> <p>1.1.9 “<b>竣工时间</b>”系指<b>附录</b>中注明的、从<b>开工日期</b>算起的完成工程的时间(或根据第 7.3 款的规定延长后的时间)。</p>
款项和支付	1.1.10 “ <b>成本(费用)</b> ”指 <b>承包商</b> 在 <b>现场</b> 内或 <b>现场</b> 外合理发生(或将发生)的全部支出，包括管理费用和类似开支，但不包括利润。
其他定义	<p>1.1.11 “<b>承包商设备</b>”系指为实施工程需要的全部仪器、机械、车辆、设施和其他物品，但不包括材料或生产设备。</p> <p>1.1.12 “<b>工程所在国</b>”系指<b>现场</b>所在的国家。</p> <p>1.1.13 “<b>雇主的责任</b>”系指第 6.1 款中所列内容。</p> <p>1.1.14 “<b>不可抗力</b>”系指超出某<b>当事方</b>的控制，该方在签合同前无法合理</p>

provided against before entering into the Contract; which, having arisen, such Party could not reasonably have avoided or overcome; and, which is not substantially attributable to the other Party.

- 1.1.15    **"Materials"** means things of all kinds (other than Plant) intended to form or forming part of the permanent work.
- 1.1.16    **"Plant"** means the machinery and apparatus intended to form or forming part of the permanent work.
- 1.1.17    **"Site"** means the places provided by the Employer where the Works are to be executed, and any other places specified in the Contract as forming part of the Site.
- 1.1.18    **"Variation"** means a change to the Specification and /or Drawings (if any) which is instructed by the Employer under Sub-Clause 10.1.
- 1.1.19    **"Works"** means all the work and design (if any) to be performed by the Contractor including temporary work and any Variation

1.2

Interpretation

Words importing persons or parties shall include firms and organisations. Words importing singular or one gender shall include plural or the other gender where the context requires.

1.3

Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. If an ambiguity or discrepancy is found in the documents, the Employer shall issue any necessary instructions to the Contractor, and the priority of the documents shall be in accordance with the order as listed in the Appendix.

1.4

Law

The law of the Contract is stated in the Appendix.

1.5

Communications

Wherever provision is made for the giving or issue of any notice, instruction, or other communication by any person, unless otherwise specified such communication shall be written in the language stated in the Appendix and shall not be unreasonably withheld or delayed.

1.6

Statutory Obligations

The Contractor shall comply with the laws of the countries where activities are performed. The Contractor shall give all notices and pay all fees and other charges in respect of the Works.

2

The Employer

2.1

Provision of Site

The Employer shall provide the Site and right of access thereto at the times stated in the Appendix.

2.2

Permits and Licences

The Employer shall, if requested by the Contractor, assist him in applying for permits, licences or approvals which are required for the Works.

预防；一旦发生，该方无法合理避免或克服，且不能主要归因于另一方的某种异常事件或情况。

1.1.15 “材料”系指拟构成或正构成永久工程部分的各类物品(生产设备除外)。

1.1.16 “生产设备”系指拟构成或正构成永久工程部分的机械和仪器。

1.1.17 “现场”系指由雇主提供的、将要实施工程的场所，以及合同中指定为现场组成部分的任何其他场所。

1.1.18 “变更”系指雇主根据第 10.1 款的规定做出指示的，对规范和(或)图纸(如果有)的改变。

1.1.19 “工程”系指要由承包商实施的全部工作和设计(如果有)，包括临时工程和任何变更。

1.2  
解释  
含有当事人或当事方意思的词语应包括公司或组织。当上下文要求时，含有单数或一种性别意思的词语应包括复数或其他性别。

1.3  
文件优先次序  
构成合同的各个文件被认为是互作说明的，如果在文件中发现歧义或矛盾，雇主应向承包商发出任何必要的指示，文件的优先次序应按照附录中列出的顺序。

1.4  
法律  
合同适用的法律在附录中说明。

1.5  
通信交流  
无论在何种场合规定给予或颁发任何通知、指示，或其他通信交流时，除非另有说明，此类通信交流应按附录中规定的语言书写，并且不能无理扣留或拖延。

1.6  
法定义务  
承包商应遵守实施活动所在国家的法律。承包商应为工程发出所有通知和支付全部费用以及其他支出。

2 雇主

2.1  
现场的提供  
雇主应按附录中注明的时间提供现场和现场进入权。

2.2  
许可和执照  
如果承包商请求，雇主应协助承包商申请工程所需要的许可、执照或批准。

- 2.3

Employer's Instructions

The Contractor shall comply with all instructions given by the Employer in respect of the Works including the suspension of all or part of the Works.
- 2.4

Approvals

No approval or consent or absence of comment by the Employer or the Employer's representative shall affect the Contractor's obligations.

3

Employer's Representatives

- 3.1

Authorised Person

One of the Employer's personnel shall have authority to act for him. This authorised person shall be as stated in the Appendix, or as otherwise notified by the Employer to the Contractor.
- 3.2

Employer's Representative

The Employer may also appoint a firm or individual to carry out certain duties. The appointee may be named in the Appendix, or notified by the Employer to the Contractor from time to time. The Employer shall notify the Contractor of the delegated duties and authority of this Employer's representative.

4

The Contractor

- 4.1

General Obligations

The Contractor shall carry out the Works properly and in accordance with the Contract. The Contractor shall provide all supervision, labour, Materials, Plant and Contractor's Equipment which may be required. All Materials and Plant on Site shall be deemed to be the property of the Employer.
- 4.2

Contractor's Representative

The Contractor shall submit to the Employer for consent the name and particulars of the person authorised to receive instructions on behalf of the Contractor.
- 4.3

Subcontracting

The Contractor shall not subcontract the whole of the Works. The Contractor shall not subcontract any part of the Works without the consent of the Employer.
- 4.4

Performance Security

If stated in the Appendix, the Contractor shall deliver to the Employer within 14 days of the Commencement Date a performance security in a form and from a third party approved by the Employer.

5

Design by Contractor

- 5.1

Contractor's Design

The Contractor shall carry out design to the extent specified, as referred to in the Appendix. The Contractor shall promptly submit to the Employer all designs prepared by him. Within 14 days of receipt the Employer shall notify any comments or, if the design submitted is not in accordance with the Contract, shall reject it stating the reasons. The Contractor shall not construct any element of the permanent work designed by him within 14 days after the design has been

2.3	承包商应遵守雇主发布的有关工程的全部指示，包括暂停全部或部分工程。
雇主的指示	
2.4	
批准	雇主或雇主代表的批准、同意、或未发表意见不应影响承包商的义务。

### 3 雇主代表

3.1	
授权人	雇主人员中的某一人应有权代表雇主行事，该授权人应在附录中注明，或另外由雇主通知承包商。
3.2	
雇主代表	雇主可委派一个公司或个人完成某些任务。可在附录中指名受托人，或有时由雇主通知承包商。雇主应通知承包商该雇主代表被付托的任务和权力。

### 4 承包商

4.1	
一般义务	承包商应正当并按照合同实施工程。承包商应提供可能需要的全部的监督、劳力、材料、生产设备和承包商设备。在现场的所有材料和生产设备应视为雇主的财产。
4.2	
承包商代表	承包商应将授权代表承包商接收指示的人员姓名和具体情况，提交给雇主，以取得同意。
4.3	
分包	承包商不得将全部工程分包。未经雇主同意，承包商不得分包工程的任何部分。
4.4	
履约担保	如果附录中已规定，承包商应在开工日期算起的 14 天内，向雇主提交一份由雇主批准的第三方按批准的格式出具的履约担保函。

### 5 由承包商设计

5.1	
承包商的设计	承包商应按附录中提到的关于设计范围和深度的规定进行设计，并应迅速向雇主提交其编制的全部设计。雇主应在收到设计之日起的 14 天内，将其对设计的任何意见通知承包商，或如果所提交的设计不符合合同，应给予拒绝并说明原因。在设计已提交给雇主后 14 天内，或对已被拒绝的那部分设计，承包商不应实施



submitted to the Employer or where the design for that element has been rejected. Design that has been rejected shall be promptly amended and resubmitted. The Contractor shall resubmit all designs commented on taking these comments into account as necessary.

5.2

Responsibility for Design

The Contractor shall remain responsible for his tendered design and the design under this Clause, both of which shall be fit for the intended purposes defined in the Contract and he shall also remain responsible for any infringement of any patent or copyright in respect of the same. The Employer shall be responsible for the Specification and Drawings.

6Employer's Liabilities

6.1

Employer's Liabilities

In this Contract, Employer's Liabilities mean :

- a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies, within the Country,
- b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- c) riot, commotion or disorder by persons other than the Contractor's personnel and other employees, affecting the Site and/or the Works,
- d) ionising radiations, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such an assembly, except to the extent to which the Contractor may be responsible for the use of any radio-active material,
- e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- f) use or occupation by the Employer of any part of the Works, except as may be specified in the Contract,
- g) design of any part of the Works by the Employer's personnel or by others for whom the Employer is responsible, and
- h) any operation of the forces of nature affecting the Site and/or the Works, which was unforeseeable or against which an experienced contractor could not reasonably have been expected to take precautions.
- i) Force Majeure,
- j) a suspension under Sub-Clause 2.3 unless it is attributable to the Contractor's failure,
- k) any failure of the Employer,
- l) physical obstructions or physical conditions other than climatic conditions, encountered on the Site during the performance of the Works, which obstructions or conditions were not reasonably foreseeable by an experienced contractor and which the Contractor immediately notified to the Employer,
- m) any delay or disruption caused by any Variation,
- n) any change to the law of the Contract after the date of the Contractor's offer as stated in the Agreement,
- o) losses arising out of the Employer's right to have the permanent work executed on, over, under, in or through any land, and to occupy this land for the permanent work, and
- p) damage which is an unavoidable result of the Contractor's obligations to execute the Works and to remedy any defects.

其设计的永久工程的任何部分。对已被拒绝的设计应迅速修改并再次提交。承包商应在对所提意见做出必要考虑后立即再次提交所有提出意见的设计。

## 5.2

### 设计职责

承包商应保持对其投标的设计和按照本条的设计负责，两者均应符合合同中规定的预期目的，承包商还应对有关上述设计的任何专利或版权的任何侵犯负责。雇主应对规范和图纸负责。

## 6 雇主的责任

### 6.1

#### 雇主的责任

本合同中，雇主的责任指以下事项：

- a) 在工程所在国内的战争、敌对行动(无论宣战与否)、入侵、外敌行为；
- b) 在工程所在国内的叛乱、恐怖主义、革命、暴动、军事政变或篡夺政权、或内战；
- c) 由承包商人员和其他雇员以外人员造成的影响现场和/或工程的骚动、喧闹或混乱；
- d) 除承包商可能对使用任何放射性物质负有责任的范围外，由来自任何核燃料或核燃料燃烧后的任何核废物、放射性毒气爆炸、或任何爆炸性核装置或其核部件的其他危险性能引起的电离辐射或放射性污染；
- e) 以音速或超音速飞行的飞机或其他飞行装置产生的压力波；
- f) 除合同中可能做出的规定外，雇主使用或占有工程的任何部分；
- g) 由雇主人员或雇主对其负责的其他人员所做的工程任何部分的设计；以及
- h) 无法预见的，或一个有经验的承包商不能对其期望采取预防措施的，影响现场和/或工程的自然力的任何作用；
- i) 不可抗力；
- j) 根据第 2.3 款规定的暂停，除非暂停是由于承包商未能履约造成的；
- k) 雇主的任何未能履约；
- l) 实施工程期间现场碰到的除气候条件以外的自然障碍或自然条件，这些自然障碍或自然条件是一个有经验的承包商无法合理预见的，并且承包商立即通知了雇主；
- m) 由任何变更产生的任何延误或中断；
- n) 在协议书中说明的承包商报价日期后，对合同法律的任何改变；
- o) 由于雇主在任何土地上面、上方、下面、范围内、或穿过它实施永久工程，以及为该永久工程占用该土地的权力，所产生的损失；以及
- p) 因承包商履行实施工程和修补任何缺陷的义务造成的不可避免的损害。

7

Time for Completion

7.1	Execution of the Works	The Contractor shall commence the Works on the Commencement Date and shall proceed expeditiously and without delay and shall complete the Works within the Time for Completion.
7.2	Programme	Within the time stated in the Appendix, the Contractor shall submit to the Employer a programme for the Works in the form stated in the Appendix.
7.3	Extension of Time	<p>Subject to Sub-Clause 10.3, the Contractor shall be entitled to an extension to the Time for Completion if he is or will be delayed by any of the Employer's Liabilities.</p> <p>On receipt of an application from the Contractor, the Employer shall consider all supporting details provided by the Contractor and shall extend the Time for Completion as appropriate.</p>
7.4	Late Completion	If the Contractor fails to complete the Works within the Time for Completion, the Contractor's only liability to the Employer for such failure shall be to pay the amount stated in the Appendix for each day for which he fails to complete the Works.

8

Taking-Over

8.1	Completion	The Contractor may notify the Employer when he considers that the Works are complete.
8.2	Taking-Over Notice	<p>The Employer shall notify the Contractor when he considers that the Contractor has completed the Works stating the date accordingly. Alternatively, the Employer may notify the Contractor that the Works, although not fully complete, are ready for taking over, stating the date accordingly.</p> <p>The Employer shall take over the Works upon the issue of this notice. The Contractor shall promptly complete any outstanding work and, subject to Clause 9, clear the Site.</p>

9

Remedying Defects

9.1	Remedying Defects	The Employer may at any time prior to the expiry of the period stated in the Appendix, notify the Contractor of any defects or outstanding work. The Contractor shall remedy at no cost to the Employer any defects due to the Contractor's design, Materials, Plant or workmanship not being in accordance with the Contract.
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## 7 竣工时间

7.1 工程的实施	承包商应在开工日期开工，应迅速和不延误地进行，并应在竣工时间内完成工程。
7.2 进度计划	承包商应在附录中说明的时间内，按附录中说明的格式，向雇主提交工程进度计划。
7.3 工期的延长	<p>根据第 10.3 款的规定，如果承包商由于任何雇主责任造成或将造成延误，承包商有权得到竣工时间的延长。</p> <p>雇主应在收到承包商的延期申请后，考虑承包商提交的全部依据的细节，适当时应延长竣工时间。</p>
7.4 延迟竣工	如果承包商未能在竣工时间内完成工程，承包商为此须向雇主承担的唯一责任应是为其延迟完成工程的每一天，向雇主支付附录中说明的金额。

## 8 接收

8.1 竣工	承包商认为工程完工时可向雇主发出通知。
8.2 接收通知	<p>雇主认为承包商已经完成工程时，应通知承包商，并相应注明日期。另一种情况，雇主可以通知承包商，工程虽然没有全部完成，但可以接收，并相应注明日期。</p> <p>雇主颁发此通知，应即接收工程。承包商应尽快完成任何扫尾工作，并遵从第 9 条的规定，清理现场。</p>

## 9 修补缺陷

9.1 修补缺陷	雇主可在附录中说明的期限期满前的任何时间，通知承包商任何缺陷或扫尾工作。由于承包商的设计、材料、生产设备或工艺不符合合同要求所产生的任何缺陷，承包商应不要雇主付费进行修补。
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The cost of remedying defects attributable to any other cause shall be valued as a Variation. Failure to remedy any defects or complete outstanding work within a reasonable time of the Employer's notice shall entitle the Employer to carry out all necessary work at the Contractor's cost.

9.2

Uncovering and Testing

The Employer may give instruction as to the uncovering and/or testing of any work. Unless as a result of any uncovering and/or testing it is established that the Contractor's design, Materials, Plant or workmanship are not in accordance with the Contract, the Contractor shall be paid for such uncovering and/or testing as a Variation in accordance with Sub-Clause 10.2.

10

Variations and Claims

10.1

Right to Vary

The Employer may instruct Variations.

10.2

Valuation of Variations

Variations shall be valued as follows:

a)

at a lump sum price agreed between the Parties, or

b)

where appropriate, at rates in the Contract, or

c)

in the absence of appropriate rates, the rates in the Contract shall be used as the basis for valuation, or failing which

d)

at appropriate new rates, as may be agreed or which the Employer considers appropriate, or

e)

if the Employer so instructs, at daywork rates set out in the Appendix for which the Contractor shall keep records of hours of labour and Contractor's Equipment, and of Materials used.

10.3

Early Warning

A Party shall notify the other as soon as he is aware of any circumstance which may delay or disrupt the Works, or which may give rise to a claim for additional payment. The Contractor shall take all reasonable steps to minimise these effects.

The Contractor's entitlement to extension to the Time for Completion or additional payment shall be limited to the time and payment which would have been due if he had given prompt notice and had taken all reasonable steps.

10.4

Right to Claim

If the Contractor incurs Cost as a result of any of the Employer's Liabilities, the Contractor shall be entitled to the amount of such Cost. If as a result of any of the Employer's Liabilities, it is necessary to change the Works, this shall be dealt with as a Variation.

10.5

Variation and Claim Procedure

The Contractor shall submit to the Employer an itemised make-up of the value of Variations and claims within 28 days of the instruction or of the event giving rise to the claim. The Employer shall check and if possible agree the value. In the absence of agreement, the Employer shall determine the value.

由任何其他原因造成的修补缺陷的费用，应作为**变更**进行估价。如果**承包商**未能在**雇主**通知的合理时间内修补任何缺陷或完成任何扫尾工作，**雇主**有权实施全部必要的工作，并由**承包商**承担费用。

9.2

除去覆盖和试验

**雇主**可对除去任何工作的覆盖和/或试验发出指示，除非任何除去覆盖和/或试验的结果证明**承包商**的设计、材料、生产设备或工艺不符合合同要求，按照第 10.2 款的规定，**承包商**对此类除去覆盖和/或试验应作为**变更**得到付款。

10 变更和索赔

10.1

变更权

**雇主**可以指示**变更**。

10.2

变更的估价

**变更**应按如下方法估价：

- a) 按双方商定的总额价格；或
- b) 如果适当，按合同中的费率；或
- c) 在没有适当费率时，应使用合同中的费率作为估价的基础；或不可行则
- d) 按可能商定的或**雇主**认为适当的新费率；或
- e) 如果**雇主**如此指示，按附录中所列的计日工作费率，则**承包商**应为此保持劳力和**承包商**设备的工时记录，以及所使用材料的记录。

10.3

提早通知

一方在得知可能造成工程延误或中断、或可能导致额外费用索赔的任何情况时，应尽快通知对方。**承包商**应采取所有合理措施将影响减至最小。

**承包商**有权获得的竣工时间的延长期或额外费用，应限于他已迅速通知**雇主**并采取所有合理措施的情况下，其应得的延长期和付款。

10.4

索赔权

如果由于任何**雇主**责任导致**承包商**发生费用，**承包商**应有权得到此类费用的款额。如果由于任何**雇主**责任必须改变工程，应按**变更**处理。

10.5

变更和索赔程序

**承包商**应在指示或产生索赔的事件发生后 28 天内，向**雇主**提交一份**变更**和索赔估价的分项构成资料。**雇主**应审查，并如果可能，商定此估价。在未达成协议的情况下，**雇主**应确定其估价。

# 11

## Contract Price and Payment

11.1	<b>Valuation of the Works</b>	The Works shall be valued as provided for in the Appendix, subject to Clause 10.
11.2	<b>Monthly Statements</b>	<p>The Contractor shall be entitled to be paid at monthly intervals:</p> <p>a) the value of the Works executed,</p> <p>b) the percentage stated in the Appendix of the value of Materials and Plant delivered to the Site at a reasonable time,</p> <p>subject to any additions or deductions which may be due.</p> <p>The Contractor shall submit each month to the Employer a statement showing the amounts to which he considers himself entitled.</p>
11.3	<b>Interim Payments</b>	<p>Within 28 days of delivery of each statement, the Employer shall pay to the Contractor the amount shown in the Contractor's statement less retention at the rate stated in the Appendix, and less any amount for which the Employer has specified his reasons for disagreement. The Employer shall not be bound by any sum previously considered by him to be due to the Contractor.</p> <p>The Employer may withhold interim payments until he receives the performance security under Sub-Clause 4.4 (if any).</p>
11.4	<b>Payment of First Half of Retention</b>	One half of the retention shall be paid by the Employer to the Contractor within 14 days after issuing the notice under Sub-Clause 8.2.
11.5	<b>Payment of Second Half of Retention</b>	The remainder of the retention shall be paid by the Employer to the Contractor within 14 days after either the expiry of the period stated in the Appendix, or the remedying of notified defects or the completion of outstanding work, all as referred to in Sub-Clause 9.1, whichever is the later.
11.6	<b>Final Payment</b>	<p>Within 42 days of the latest of the events listed in Sub-Clause 11.5 above, the Contractor shall submit a final account to the Employer together with any documentation reasonably required to enable the Employer to ascertain the final contract value.</p> <p>Within 28 days after the submission of this final account, the Employer shall pay to the Contractor any amount due. If the Employer disagrees with any part of the Contractor's final account, he shall specify his reasons for disagreement when making payment.</p>
11.7	<b>Currency</b>	Payment shall be in the currency stated in the Appendix.
11.8	<b>Delayed Payment</b>	The Contractor shall be entitled to interest at the rate stated in the Appendix for each day the Employer fails to pay beyond the prescribed payment period.

# 11 合同价格和付款

11.1 工程的估价	工程应根据第 10 条的规定，按附录中提供的资料进行估价。
11.2 月报表	<p>承包商应有权按月得到下列付款：</p> <p>a) 已实施的工程的价值；</p> <p>b) 附录中注明的，在合理时间内已运至现场的材料和生产设备价值的百分比。</p> <p>并考虑任何应增加或扣减的款额。</p> <p>承包商应每月向雇主提交一份报表，说明他认为自己有权得到的款额。</p>
11.3 期中付款	<p>雇主应在提交每份报表 28 天内，按承包商报表中注明的金额，减去按附录中规定的费率扣除保留金，并减去雇主已说明不同意原因的任何款额，向承包商支付。雇主不应受其先前认为应付承包商的任何总额的限制。</p> <p>雇主可以扣发期中付款，直到收到第 4.4 条款规定的履约担保(如果有)。</p>
11.4 前一半保留金的支付	雇主应在根据第 8.2 款的规定颁发通知后 14 天内，向承包商支付一半保留金。
11.5 后一半保留金的支付	雇主应在附录中注明的期限期满后 14 天内，或按第 9.1 款提到的全部要求修补完已通知的缺陷或完成扫尾工作后 14 天内，以较晚的为准，向承包商支付保留金的余额。
11.6 最终付款	<p>承包商应在上述第 11.5 款所列最晚事件之日起 42 天内，向雇主提交最终账目，并附使雇主能确定最终合同价值合理要求的任何文件。</p> <p>雇主应在提交该最终账目后 28 天内，向承包商支付其应得的任何金额。如果雇主不同意承包商最终账目中的任何部分，在进行支付时应说明不同意的理由。</p>
11.7 货币	应以附录中说明的货币进行支付。
11.8 延误的付款	对雇主超过规定付款期限未能支付的每一天，承包商均有权按附录中说明的利率获得利息。



# 12

## Default

### 12.1

#### Default by Contractor

If the Contractor abandons the Works, refuses or fails to comply with a valid instruction of the Employer or fails to proceed expeditiously and without delay, or is, despite a written complaint, in breach of the Contract, the Employer may give notice referring to this Sub-Clause and stating the default.

If the Contractor has not taken all practicable steps to remedy the default within 14 days after the Contractor's receipt of the Employer's notice, the Employer may by a second notice given within a further 21 days, terminate the Contract. The Contractor shall then demobilise from the Site leaving behind Materials and Plant and any Contractor's Equipment which the Employer instructs in the second notice is to be used until the completion of the Works.

### 12.2

#### Default by Employer

If the Employer fails to pay in accordance with the Contract, or is, despite a written complaint, in breach of the Contract, the Contractor may give notice referring to this Sub-Clause and stating the default. If the default is not remedied within 7 days after the Employer's receipt of this notice, the Contractor may suspend the execution of all or parts of the Works.

If the default is not remedied within 28 days after the Employer's receipt of the Contractor's notice, the Contractor may by a second notice given within a further 21 days, terminate the Contract. The Contractor shall then demobilise from the Site.

### 12.3

#### Insolvency

If a Party is declared insolvent under any applicable law, the other Party may by notice terminate the Contract immediately. The Contractor shall then demobilise from the Site leaving behind, in the case of the Contractor's insolvency, any Contractor's Equipment which the Employer instructs in the notice is to be used until the completion of the Works.

### 12.4

#### Payment upon Termination

After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by the following:

- a) any sums to which the Contractor is entitled under Sub-Clause 10.4,
- b) any sums to which the Employer is entitled,
- c) if the Employer has terminated under Sub-Clause 12.1 or 12.3, the Employer shall be entitled to a sum equivalent to 20% of the value of those parts of the Works not executed at the date of the termination,
- d) if the Contractor has terminated under Sub-Clause 12.2 or 12.3, the Contractor shall be entitled to the Cost of his suspension and demobilisation together with a sum equivalent to 10% of the value of those parts of the Works not executed at the date of termination.

The net balance due shall be paid or repaid within 28 days of the notice of termination.

## 12 违约

### 12.1

#### 承包商违约

如果承包商放弃工程,拒绝或未能遵守雇主的有效指示,或未能迅速和不延误地进行,或违反合同不顾书面警告,雇主可发出通知参照本款说明此违约。

如果承包商在收到雇主通知后 14 天内,没有采取全部可行的措施纠正违约,雇主可在再 21 天内,通过发出第二次通知终止合同。这时,承包商应从现场撤离,留下材料和生产设备,以及雇主在第二次通知中指示将使用到工程竣工的任何承包商设备。

### 12.2

#### 雇主违约

如果雇主未能按合同付款,或违反合同不顾书面警告,承包商可发出通知参照本款说明违约。如果雇主在收到该通知后 7 天内没有纠正违约,承包商可暂停实施全部或部分工程。

如果雇主在收到承包商通知后 28 天内没有纠正违约,承包商可在再 21 天内通过发出第二次通知终止合同。这时,承包商应从现场撤离。

### 12.3

#### 无力偿债

如果一当事方根据任何适用法律,被宣布无力偿债,另一方可通过发出通知立即终止合同。这时,承包商应撤离现场,在承包商无力偿债情况下,应留下雇主在通知中指示将使用到工程竣工的任何承包商设备。

### 12.4

#### 终止时的付款

终止后,承包商有权得到未支付的已实施工程价值的余额和合理运到现场的材料和生产设备价值的余额,并做以下调整:

- a) 根据第 10.4 款的规定,承包商有权得到的任何款项总额;
- b) 雇主有权得到的任何款项总额;
- c) 如果雇主根据第 12.1 款或第 12.3 款的规定,已经终止,雇主应有权得到相当于在终止日期未实施的那些工程部分价值的 20% 的款额;
- d) 如果承包商根据第 12.2 款或第 12.3 款的规定,已经终止,承包商应有权得到其暂停和撤离的费用,再加上在终止日期相当于未实施的那些工程部分价值的 10% 的款额。

应付的净余额应在发出终止通知之日起 28 天内付清。

# 13

## Risk and Responsibility

### 13.1

#### Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works from the Commencement Date until the date of the Employer's notice under Sub-Clause 8.2. Responsibility shall then pass to the Employer. If any loss or damage happens to the Works during the above period, the Contractor shall rectify such loss or damage so that the Works conform with the Contract.

Unless the loss or damage happens as a result of an Employer's Liability, the Contractor shall indemnify the Employer, the Employer's contractors, agents and employees against all loss or damage happening to the Works and against all claims or expense arising out of the Works caused by a breach of the Contract, by negligence or by other default of the Contractor, his agents or employees.

### 13.2

#### Force Majeure

If a Party is or will be prevented from performing any of its obligations by Force Majeure, the Party affected shall notify the other Party immediately. If necessary, the Contractor shall suspend the execution of the Works and, to the extent agreed with the Employer, demobilise the Contractor's Equipment.

If the event continues for a period of 84 days, either Party may then give notice of termination which shall take effect 28 days after the giving of the notice.

After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by the following:

- a) any sums to which the Contractor is entitled under Sub-Clause 10.4,
- b) the Cost of his suspension and demobilisation,
- c) any sums to which the Employer is entitled.

The net balance due shall be paid or repaid within 28 days of the notice of termination.

# 14

## Insurance

### 14.1

#### Extent of Cover

The Contractor shall, prior to commencing the Works, effect and thereafter maintain insurances in the joint names of the Parties:

- a) for loss and damage to the Works, Materials, Plant and the Contractor's Equipment,
- b) for liability of both Parties for loss, damage, death or injury to third parties or their property arising out of the Contractor's performance of the Contract, including the Contractor's liability for damage to the Employer's property other than the Works, and
- c) for liability of both Parties and of any Employer's representative for death or injury to the Contractor's personnel except to the extent that liability arises from the negligence of the Employer, any Employer's representative or their employees.

# 13 风险和职责

## 13.1

### 承包商的工程照管

承包商应从开工日期至雇主根据第 8.2 款的规定发出接收通知的日期止，对工程的照管负全部责任。这时，照管的责任应移交给雇主。在上述期间，如果对工程发生任何损失或损害，承包商应修正这些损失或损害以使工程符合合同要求。

除非损失或损害是由于雇主责任造成的，承包商应保障雇主、雇主的承包商、代理人 and 雇员免于承担工程所发生的全部损失或损坏，以及免于承担由于承包商、其代理人或雇员违反合同、疏忽或其他违约造成的工程导致的任何索赔或开支。

## 13.2

### 不可抗力

如果某一当事方由于不可抗力，使其履行任何义务受到或将受到阻碍，受影响的该方应立即通知另一方。如果必要，承包商可暂停实施工程，并在与雇主商定的范围内，撤离承包商设备。

如果该事件持续影响达 84 天，这时，任一当事方可发出终止的通知，并应在通知发出后 28 天开始生效。

终止后，承包商有权得到未支付的已实施工程价值的余额和合理运到现场的材料和生产设备价值的余额，并做以下调整：

- a) 根据第 10.4 款的规定，承包商有权得到的任何款项总额；
- b) 暂停和撤离的费用；
- c) 雇主有权得到的任何款项总额。

应付的净余额应在发出终止通知之日起 28 天内付清。

# 14 保险

## 14.1

### 保险范围

承包商应在工程开工前，以双方联合名义对下述事项办理保险并随后保持其有效：

- a) 对工程、材料、生产设备和承包商设备的损失或损害；
- b) 双方承担责任的、由于承包商履行合同产生的对第三方或其财产的损失、损害、死亡或伤害，包括承包商对除工程外的雇主财产的损害责任；以及
- c) 双方和任何雇主代表对承包商人员的死亡或伤害的责任，但由雇主、任何雇主代表或其雇员的疏忽产生的责任范围除外。

14.2

Arrangements

All insurances shall conform with any requirements detailed in the Appendix. The policies shall be issued by insurers and in terms approved by the Employer. The Contractor shall provide the Employer with evidence that any required policy is in force and that the premiums have been paid.

All payments received from insurers relating to loss or damage to the Works shall be held jointly by the Parties and used for the repair of the loss or damage or as compensation for loss or damage that is not to be repaired.

14.3

Failure to Insure

If the Contractor fails to effect or keep in force any of the insurances referred to in the previous Sub-Clauses, or fails to provide satisfactory evidence, policies or receipts, the Employer may, without prejudice to any other right or remedy, effect insurance for the cover relevant to such default and pay the premiums due and recover the same as a deduction from any other monies due to the Contractor.

15

Resolution of Disputes

15.1

Adjudication

Unless settled amicably, any dispute or difference which arises between the Contractor and the Employer out of or in connection with the Contract, including any valuation or other decision of the Employer, shall be referred by either Party to adjudication in accordance with the attached Rules for Adjudication ("the Rules"). The adjudicator shall be any person agreed by the Parties. In the event of disagreement, the adjudicator shall be appointed in accordance with the Rules.

15.2

Notice of Dissatisfaction

If a Party is dissatisfied with the decision of the adjudicator or if no decision is given within the time set out in the Rules, the Party may give notice of dissatisfaction referring to this Sub-Clause within 28 days of receipt of the decision or the expiry of the time for the decision. If no notice of dissatisfaction is given within the specified time, the decision shall be final and binding on the Parties. If notice of dissatisfaction is given within the specified time, the decision shall be binding on the Parties who shall give effect to it without delay unless and until the decision of the adjudicator is revised by an arbitrator.

15.3

Arbitration

A dispute which has been the subject of a notice of dissatisfaction shall be finally settled by a single arbitrator under the rules specified in the Appendix. In the absence of agreement, the arbitrator shall be designated by the appointing authority specified in the Appendix. Any hearing shall be held at the place specified in the Appendix and in the language referred to in Sub-Clause 1.5.

**14.2 约定** 所有保险应符合附录中详述的任何要求，保险单应由保险人按雇主批准的条件发出，承包商应向雇主提供任何要求的保险单已生效并已支付保险费的证据。

从保险人处收到的、与工程损失或损害相关的所有付款应由双方共同保有，用于修复这些损失或损害，或作为对不需修复的损失或损害的补偿。

**14.3 未办理保险** 如果承包商对上款提到的任何保险未能办理并保持有效，或未能提供满意的证据、保险单或收据，在不影响其他权利或补救措施的前提下，雇主可办理与此项违约相关的保险，支付应付的保险费，此项费用可作为从应付给承包商的任何其他款项的扣减收回。

## 15 争端的解决

**15.1 裁决** 除非友好解决，雇主和承包商之间的由合同产生或与合同有关的任何争端和意见分歧，包括雇主的估价或其他决定，应由任一方按照所附的“裁决规则”（简称“规则”）提交裁决。裁决员应是双方商定的任何一人。如未达成协议，裁决员应按照规定任命。

**15.2 表示不满的通知** 如果一方不满意裁决员的裁决，或裁决员在规则规定的时间内未提出裁决，该方在收到裁决员决定，或做决定期限期满之日起 28 天内可根据本款发出表示不满的通知。如果在规定的时间内未发出表示不满的通知，该裁决应是最终的并对双方具有约束力的。如果在规定时间内发出了表示不满的通知，除非和直到仲裁员修改了裁决员的裁决，裁决应对双方具有约束力，双方应尽快使裁决生效。

**15.3 仲裁** 已成为表示不满的通知的主体的任何争端，应由一名独立的仲裁员根据附录中规定的规则做出最终处理。在未达成协议的情况下，仲裁员应由附录中规定的任命机构指定。任何听证会应在附录中规定的地方举行，并使用第 1.5 款提出的语言。

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# Particular Conditions

**Note**                      It is intended that the Short Form of Contract will work satisfactorily without any Particular Conditions. However, if the requirement of the project makes it desirable to amend any Clause or to add provisions to the Contract, the amendments and additions should be set out on pages headed Particular Conditions. Care should be taken with the drafting of such Clauses especially in view of the high priority given to the Particular Conditions by Sub-Clause 1.3.

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## 专用条件

注释：

本《简明合同格式》的意图是不用任何专用条件即能满足使用要求，但当项目要求希望对任何条款做出修改，或在合同中增加一些规定时，修改和增加的内容应在专用条件标题下另纸列出。起草这类条款时应特别注意第 1.3 款对专用条件给予的高度优先性。

# Rules for Adjudication

referred to in Sub-Clause 15.1

General	1	Any reference in the Conditions of Contract to the Rules for Adjudication shall be deemed to be a reference to these Rules.
	2	Definitions in the Contract shall apply in these Rules.
Appointment of Adjudicator	3	The Parties shall jointly ensure the appointment of the Adjudicator. The Adjudicator shall be a suitably qualified person.
	4	If for any reason the appointment of the Adjudicator is not agreed at the latest within 14 days of the reference of a dispute in accordance with these Rules, then either Party may apply, with a copy of the application to the other Party, to any appointing authority named in the Contract or, if none, to the President of FIDIC or his nominee, to appoint an Adjudicator, and such appointment shall be final and conclusive.
	5	The Adjudicator's appointment may be terminated by mutual agreement of the Parties. The Adjudicator's appointment shall expire when the Works have been completed or when any disputes referred to the Adjudicator shall have been withdrawn or decided, whichever is the later.
Terms of Appointment	6	The Adjudicator is to be, and is to remain throughout his appointment, impartial and independent of the Parties and shall immediately disclose in writing to the Parties anything of which he becomes aware which could affect his impartiality or independence.
	7	The Adjudicator shall not give advice to the Parties or their representatives concerning the conduct of the project of which the Works form part other than in accordance with these Rules.
	8	The Adjudicator shall not be called as a witness by the Parties to give evidence concerning any dispute in connection with, or arising out of, the Contract.
	9	The Adjudicator shall treat the details of the Contract and all activities and hearings of the Adjudicator as confidential and shall not disclose the same without the prior written consent of the Parties. The Adjudicator shall not, without the consent of the Parties, assign or delegate any of his work under these Rules or engage legal or technical assistance.
	10	The Adjudicator may resign by giving 28 days' notice to the Parties. In the event of resignation, death or incapacity, termination or a failure or refusal to perform the duties of Adjudicator under these Rules, the Parties shall agree upon a replacement Adjudicator within 14 days or Rule 4 shall apply.

# 裁决规则

参照第 15.1 款

总则

- 1 合同条件中任何提到**裁决规则**的地方应视为是指**本规则**；
- 2 合同中的定义应适用于**本规则**。

裁决员的任命

- 3 双方应联合确保**裁决员**的任命。**裁决员**应是具有适当资质的人员；
- 4 如果由于任何原因，在根据**本规则**提出争端之日起最迟 14 天内，双方就**裁决员**的任命未能达成一致，则任一方可向合同中指名的负责任命机构，或没有时，菲迪克(FIDIC)主席或其指定人员申请任命一名**裁决员**，并将申请抄送另一方。此项任命应是最终的和结论性的。
- 5 **裁决员**的任命可通过双方协议终止。当工程竣工或提交**裁决员**的任何争端已经撤回或做出决定两者较晚的日期，**裁决员**的任命应期满。

任命条款

- 6 **裁决员**将，并在其全部任期内，保持公正和独立于各方，对其了解到可能影响其公正和独立性的任何事项，应立即书面向各方公开。
- 7 除按照**本规则**外，**裁决员**不应向各方或其代表就有关工程作为其组成部分的项目的实施提出建议。
- 8 各方不应将**裁决员**作为证人，要求其提供关于与合同有关的或由合同产生的任何争端的证据。
- 9 **裁决员**应将合同细节及**裁决员**的全部活动和意见听取会作机密处理，无各方事先书面同意，不应透露。未经双方同意，**裁决员**不应将其在**本规则**下的任何工作进行转让或付托，或雇用法律或技术助手。
- 10 **裁决员**可通过提前 28 天向各方发出通知辞职。在**裁决员**辞职、死亡或失去能力、终止或未能或拒绝履行其根据**本规则**规定的职责的情况下，各方应在 14 天内或应用**本规则**第 4 条，商定替换**裁决员**。

Payment

- 11

The Adjudicator shall in no circumstances be liable for any claims for anything done or omitted in the discharge of the Adjudicator's duties unless the act or omission is shown to have been in bad faith.
- 12

If the Adjudicator shall knowingly breach any of the provisions of Rule 6 or act in bad faith, he shall not be entitled to any fees or expenses hereunder and shall reimburse each of the Parties for any fees and expenses properly paid to him if, as a consequence of such breach any proceedings or decisions of the Adjudicator are rendered void or ineffective.
- 13

The Adjudicator shall be paid the fees and expenses set out in the Adjudicator's Agreement.
- 14

The retainer fee, if applicable, shall be payment in full for:

(a)

being available, on 28 days' notice, for all hearings and Site visits;

(b)

all office overhead expenses such as secretarial services, photocopying and office supplies incurred in connection with his duties;

(c)

all services performed hereunder except those performed during the days referred to in Rule 15.
- 15

The daily fee shall be payable for each working day preparing for or attending Site visits or hearings or preparing decisions including any associated travelling time.
- 16

The retainer and daily fees shall remain fixed for the period of tenure of the Adjudicator.
- 17

All payments to the Adjudicator shall be made by the Contractor who will be entitled to be reimbursed half by the Employer. The Contractor shall pay invoices addressed to him within 28 days of receipt. The Adjudicator's invoices for any monthly retainer shall be submitted quarterly in advance and invoices for daily fees and expenses shall be submitted following the conclusion of a Site visit or hearing. All invoices shall contain a brief description of the activities performed during the relevant period. The Adjudicator may suspend work if any invoice remains unpaid at the expiry of the period for payment, provided that 7 days prior notice has been given to both Parties.
- 18

If the Contractor fails to pay an invoice addressed to it, the Employer shall be entitled to pay the sum due to the Adjudicator and recover the sum paid from the Contractor.

Procedure for Obtaining Adjudicator's Decision

- 19

A dispute between the Parties may be referred in writing by either Party to the Adjudicator for his decision, with a copy to the other Party. If the Adjudicator has not been agreed or appointed, the dispute shall be referred in writing to the other Party, together with a proposal for the appointment of an Adjudicator. A reference shall identify the dispute and refer to these Rules.
- 20

The Adjudicator may decide to visit the Site. The Adjudicator may decide to conduct a hearing in which event he shall decide on the date, place and duration for the hearing. The Adjudicator may request that written statements from the Parties be presented to him prior to, at or after the hearing. The Parties shall promptly provide the Adjudicator with sufficient copies of any documentation and information relevant to the Contract that he may request.

- 11 除非**裁决员**的行为或疏忽表明是不诚实的，**裁决员**在任何情况下不应对其履行**裁决员**职责中所做的或遗漏的任何事项提出的任何索赔负责。
- 12 如果**裁决员**有意地违反本规则第 6 条中的任何规定或行为不诚实，他将无权获得下面的任何报酬或开支，并且如果由于此类违反，致使**裁决员**的任何记录或决定变为无效或失效时，**裁决员**应补偿每一方已向其正当支付的报酬和开支。

## 报酬

- 13 应向**裁决员**支付**裁决员**协议书中规定的酬金和开支。
- 14 如果适用，聘请费应是对下述事项的全部付款：
  - (a) 出席所有提前 28 天通知的意见听取会和现场视察；
  - (b) 全部的办公室管理费开支，如有关其任务所发生的秘书服务、复印、及办公用品费；
  - (c) 除规则第 15 条提到的天数内提供的服务外，下面提供的全部服务。
- 15 对准备或参加现场视察或意见听取会或编写决定的每一工作日，包括与此相关的任何旅行时间，应支付日酬金。
- 16 在**裁决员**的任期内，聘用金和日酬金应保持固定。
- 17 **承包商**应支付**裁决员**全部费用，并有权得到雇主补偿其一半。**承包商**应在收到提交给他的发票之日起 28 天内做出支付。**裁决员**应提前一个季度提交任一个月的聘用金发票，日酬金和开支的发票应在每次现场视察或意见听取会后提交，所有发票应包括相应期间内进行活动的简单说明。如果任何发票在支付期限期满时仍未支付，只要已提前 7 天向各方发出通知，**裁决员**可暂停工作。
- 18 如**承包商**未能及时支付提交给他的发票，雇主应有权支付本应付给**裁决员**的总额，并有权扣回应由**承包商**付的款额。

## 获得裁决员决定的程序

- 19 任一方可将双方间的争端以书面形式提交**裁决员**裁决，并将副本送交另一方。如果还未商定或任命**裁决员**，应将争端连同任命**裁决员**的建议书面送交另一方。委托书应确认争端并参照本规则。
- 20 **裁决员**可决定视察现场。**裁决员**可决定举行意见听取会，在此情况下他应决定意见听取会的日期、地点和持续时间。**裁决员**可以要求各方在意见听取会前、会中或会后提交书面说明，各方应迅速向**裁决员**提供其可能要求的与合同有关的任何文件和资料的足够的副本。



- 21
- The Adjudicator shall act as an impartial expert, not as an arbitrator, and shall have full authority to conduct any hearing as he thinks fit, not being bound by any rules or procedures other than those set out herein. Without limiting the foregoing, the Adjudicator shall have power to:
- (a)

decide upon the Adjudicator's own jurisdiction, and as to the scope of any dispute referred to him,
- (b)

make use of his own specialist knowledge, if any,
- (c)

adopt an inquisitorial procedure,
- (d)

*decide upon the payment of interest in accordance with the Contract,*
- (e)

open up, review and revise any opinion, instruction, determination, certificate or valuation, related to the dispute,
- (f)

refuse admission to hearings to any persons other than the Employer, the Contractor and their respective representatives, and to proceed in the absence of any Party who the Adjudicator is satisfied received notice of the hearing.
- 22
- All communications between either of the Parties and the Adjudicator and all hearings shall be in the language of the Adjudicator's Agreement. All such communications shall be copied to the other Party.
- 23
- No later than the fifty-sixth day after the day on which the Adjudicator received a reference or, if later, the day on which the Adjudicator's Agreement came into effect, the Adjudicator shall give written notice of his decision to the Parties. Such decision shall include reasons and state that it is given under these Rules.
-

- 21 **裁决员**应作为公正的专家，而不是作为仲裁员进行工作，并应有全权举行其认为合适的任何意见听取会。除本规则中列出的规定外，不受任何规则或程序的约束。在不限上述权力的前提下，**裁决员**应有权：
- a) 决定**裁决员**自己的权限，以及委托给他的任何争端涉及的范围；
  - b) 利用其自己的专家知识，如果有；
  - c) 采用讯问调查程序；
  - d) 按照合同规定决定利息的支付；
  - e) 公开、检查和修改与争端有关的任何意见、指示、确定、证书或估价；
  - f) 除雇主、承包商和他们各自的代表外，拒绝任何人进入意见听取会场，并在确信其已收到意见听取会通知的任一方缺席时继续进行会议。
- 22 各方中的任一方与裁决员间的全部通信交流和全部意见听取会应使用**裁决员**协议书中规定的语言。全部此类通信交流应向另一方递交副本。
- 23 在**裁决员**收到委托后，或如果较晚，在**裁决员**协议书生效日期后不迟于第56天内，**裁决员**应向各方发出其书面的决定通知。此类决定应包括理由并说明是根据本规则做出的。
-

# Adjudicator's Agreement

Identification of Project:

\_\_\_\_\_  
(the "Project")

Name and address of the Employer:

\_\_\_\_\_  
(the "Employer")

Name and address of Contractor:

\_\_\_\_\_  
(the "Contractor")

Name and address of Adjudicator:

\_\_\_\_\_  
(the "Adjudicator")

**Whereas** the Employer and the Contractor have entered into a contract ("the Contract") for the execution of the Project and wish to appoint the Adjudicator to act as adjudicator in accordance with the Rules for Adjudication ["the Rules"].

**The Employer, Contractor and Adjudicator agree as follows:**

1. The Rules and the dispute provisions of the Contract shall form part of this Agreement.
2. The Adjudicator shall be paid:

A retainer fee of \_\_\_\_\_ per calendar month  
(where applicable)

A daily fee of \_\_\_\_\_

Expenses (including the cost of telephone calls, courier charges, faxes and telexes incurred in connection with his duties; all reasonable and necessary travel expenses, hotel accommodation and subsistence and other direct travel expenses).

Receipts will be required for all expenses.

# 裁决员协议书

项目标识：

(“项目”)

雇主的

名称和地址：

(“雇主”)

承包商的

名称和地址：

(“承包商”)

裁决员的

姓名和地址：

(“裁决员”)

鉴于雇主和承包商为项目实施已签订合同(以下称:“合同”),并希望任命该裁决员作为按照裁决规则(以下称:“规则”)进行工作的裁决员。

雇主、承包商和裁决员达成协议如下:

1. 规则和合同中的各项争端规定应为本协议书的组成部分。

2. 应向裁决员支付:

聘请费(如适用)\_\_\_\_\_/每日历月

日酬金\_\_\_\_\_

各项开支(包括有关其任务所发生的电话费、信差服务费、传真和电传费用;所有合理和必需的旅行开支、旅馆住宿和生活费;以及其他旅行直接开支)。

应提供所有开支的收据。

- 3. The Adjudicator agrees to act as adjudicator in accordance with the Rules and has disclosed to the Parties any previous or existing relationship with the Parties or others concerned with the Project.
- 4. This Agreement shall be governed by the law of \_\_\_\_\_
- 5. The language of this Agreement shall be \_\_\_\_\_

SIGNED BY \_\_\_\_\_

for and on behalf of the Employer in the presence of

Witness \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Date \_\_\_\_\_

SIGNED BY \_\_\_\_\_

for and on behalf of the Contractor in the presence of

Witness \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Date \_\_\_\_\_

SIGNED BY \_\_\_\_\_

for and on behalf of the Adjudicator in the presence of

Witness \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Date \_\_\_\_\_

3. 裁决员同意按照规则作为裁决员行事，并已向各方公开其与各方或与项目有关的其他人以前或现在的任何关系。

4. 本协议书应由\_\_\_\_\_法律管辖

5. 本协议书的语言应是\_\_\_\_\_

签字人签字\_\_\_\_\_

在下列证人在场下，代表雇主签字

见证人\_\_\_\_\_  
姓名\_\_\_\_\_  
地址\_\_\_\_\_  
日期\_\_\_\_\_

签字人签字\_\_\_\_\_

在下列证人在场下，代表承包商签字

见证人\_\_\_\_\_  
姓名\_\_\_\_\_  
地址\_\_\_\_\_  
日期\_\_\_\_\_

签字人签字\_\_\_\_\_

在下列证人在场下，代表裁决员签字

见证人\_\_\_\_\_  
姓名\_\_\_\_\_  
地址\_\_\_\_\_  
日期\_\_\_\_\_

# Notes for Guidance

(not forming part of the Contract)

## General

The objective of this Contract is to express in clear and simple terms traditional procurement concepts. The Contract is intended to be suitable for works of simple content and short duration. If it is required that the Contractor should undertake design, this is also provided for.

There are no Particular Conditions, although these Notes contain alternative wording for consideration in particular circumstances. All necessary additional information is intended to be provided in the Appendix.

A single document is proposed for the form of tender and the agreement. This reflects the simple projects envisaged.

One result of the simple form of Contract is that there is an increased burden on the Employer to set out in the Specification and Drawings the full scope of works, including the extent of any design to be done by the Contractor.

There is no Engineer or Employer's Representative in the formal sense used in some other FIDIC Conditions. The Employer takes all necessary actions. However, the Employer must nominate his authorised spokesman and, if he wishes to engage a consultant to administer the Contract, may appoint a representative with specific delegated duties and authority. The Contractor also nominates a representative.

The Conditions contain no overall limit on the Contractor's liability. If such a limit is required, a Clause should be inserted in the Particular Conditions.

## Agreement

The printed form envisages a simple procedure of offer and acceptance. In order to avoid the traps and uncertainties that surround "letters of acceptance" and "letters of intent", it was thought preferable to promote a clear and unambiguous practice.

It is intended that the Employer will write in the Employer's name in the Agreement and fill in the Appendix where appropriate and send two copies to tenderers together with the Specification, Drawings etc forming the tender package. In respect of both copies, the Contractor is to complete, sign and date the Offer section and complete any remaining spaces in the Appendix. Having decided which tender to accept, the Employer signs the Acceptance section of both copies and returns one copy to the Contractor. The Contract comes into effect upon receipt by the Contractor of his copy.

If post-tender negotiations are permitted and changes in specification or price are agreed, then the form can still be used after the Parties have made and initialled the appropriate changes to their respective documents. The Contractor thus makes a revised offer in response to the Employer's revised tender documents and the revised offer is accepted by the Employer signing and returning the Acceptance form. If the changes are extensive, a new form of Agreement should be completed by the Parties.

# 指南注释

(非合同组成部分)

## 总则

本合同的目的是以清楚和简单的用语表达传统的采购概念，希望适用于内容简单和工期较短的工程。如果要求**承包商**应承担设计，也为此做了规定。

尽管本**注释**包含在特殊情况下可供考虑的替代词语，但没有**专用条件**。全部必要的附加资料拟在**附录**中提供。

建议投标书格式和协议书只用一个文件。这反映了设想的简单项目。

简明合同格式的结果是雇主增加了负担，必须在**规范**和**图纸**中列出全部工程的内容，包括要由**承包商**进行任何设计的范围。

没有在其他某些 FIDIC 合同**条件**中通常意义下使用的**工程师**或**雇主代表**，雇主承担全部必要的工作。但**雇主**必须指定其授权的发言人，如果他希望聘用咨询**工程师**管理合同，则可任命一名付托特定任务和权力的代表。**承包商**也指定一名代表。

本**条件**没有包含对**承包商**责任的总体限制，如需限制，应在**专用条件**中增加**条款**。

## 协议书

印行的格式设想了一种简单的报价和接受的程序，为避免围绕“中标函”和“意向书”的圈套和不确定性，考虑推出一个清楚和明确的作法。

设想**雇主**在**协议书**中写入**雇主**名称，填写**附录**中的适当部分，一式两份连同构成招标文件包的**规范**和**图纸**等发给投标人。对这两份文件，**承包商**要填写**报价**部分，签字和注明日期，并填写**附录**中其余任何未填部分。如果**雇主**已决定接受某一份投标书，则在两份文件的**接受**部分签字并将一份返还**承包商**。**承包商**收到该文件时**合同**即生效。

如果允许投标后谈判，并对改变规范或价格达成一致，这时，本格式在各方已对各自文件进行恰当修改和签姓名缩写后仍可使用。**承包商**为响应**雇主**修改的招标文件修改报价，此修改的报价经**雇主**签字并返回**接受**格式予以接受。如果改变很大，双方应填写新的**协议书**。



As the Contract comes into effect upon receipt of the signed Acceptance by the Contractor, the Employer should take steps to establish when receipt occurs, for example by requiring the Contractor to collect and sign for the Agreement.

When the applicable law imposes any form of tax such as VAT on the Works, the Employer should make clear whether tenderers should include such taxes in their prices. Similarly, if payment is to be made in whole or in part in a currency other than the currency of the Country, the Employer should make this clear to tenderers. See Sub-Clause 11.7.

Appendix

Any Notes for Guidance on the completion of the Appendix are to be found in the Notes to the Clauses concerned. The Employer should complete the Appendix as indicated prior to inviting tenders. Tenderers may be asked to insert a Time for Completion at 1.1.9 if none is specified. Where tenderers are required to submit design with their tenders, the documents containing the tendered design should be identified by the tenderer against item 1.1.1(f) of the Appendix.

A number of suggestions have been made in the Appendix, such as the time for submission of the Contractor's programme under Sub-Clause 7.2 and the amount of retention under Sub-Clause 11.3. If these suggestions are adopted by the Employer, no action is required. Otherwise, they should be deleted and replaced.

General Provisions

1.1 **Definitions.** The definitions in these Conditions are not all the same as those to be found in other FIDIC Contracts. This is as a result of the need for simplicity in Conditions of this sort. Significantly different definitions include Commencement Date, Site, Variation and Works.

1.1.1 **"Contract".** The list of documents serves two purposes: firstly, to identify which documents form part of the Contract; and secondly, to provide an order of priority in the event of conflict between them.

Document identification is necessary to avoid any possible doubt, for example because specifications have been subject to revisions. A complete list of Drawings is always desirable and could be attached on a separate sheet.

There is no need for Particular Conditions but if amendments to these Conditions are required, they should be inserted on the sheet headed Particular Conditions and given priority over the General Conditions. If none, delete the reference.

The Specification should set out in clear terms any design that the Contractor is required to undertake, including the extent to which any design proposals are to be submitted with the tender. If none, the reference to the Contractor's tendered design should be deleted.

If there is no bill of quantities, delete the reference.

If there are additional documents which are required to form part of the Contract, such as schedules of information provided by the Contractor, these should be added by the Employer. Consideration should be given in each case to the required priority.

If a letter of acceptance is used, it should be given high priority, with or in place of the Agreement, for example.

由于**承包商**收到签字的**接受格式**，**合同**开始生效，**雇主**应采取措施确认何时收到，例如，要求**承包商**领走并签收**协议书**。

当按适用法律对工程征收任何形式的税费，如**增值税** (Value Added Tax, VAT) 时，**雇主**应说明投标人是否应将此类税费包含在其报价中。类似地，如果付款将全部或部分以一种工程所在国以外的货币支付，**雇主**应向投标人说明，见第 11.7 款的规定。

附录

关于填写**附录**的任何**指南注释**可在有关条的**注释**中找到，**雇主**应在邀请投标前按所示内容填写**附录**。如未做规定，可以要求投标人在第 1.1.9 款中填入**竣工时间**。如果要求投标人随其投标书提交设计，则包含投标设计的文件，应由投标人对应**附录**第 1.1.1 (f) 栏标出。

在**附录**中提出了一些建议，如根据第 7.2 款规定的**承包商**进度计划的提交时间，以及根据第 11.3 款规定的保留金的金额。如果**雇主**采纳这些建议，则不需进行任何变动。否则，应删除和替换它们。

一般规定

1.1 定义。本条件中的定义与其他**FIDIC 合同条件**中的定义不完全一样，主要是由于这类条件的简明性要求所致，明显不同的定义包括**开工日期**、**现场**、**变更**和**工程**。

1.1.1 “合同”。各文件列表有两个目的：一是识别哪些文件是本合同组成部分，二是在各文件间产生相互矛盾时，提供优先的次序。

文件标识对避免任何可能的疑问是必要的，例如：规范已经经过修改。**图纸**的总表经常是需要的，可作为一张单独的附表。

不需要**专用条件**，但如果需要对**通用条件**做出修改，则这些修改应加入以**专用条件**为标题的另页，并说明优先于**通用条件**。如无需要，则删除有关内容。

**规范**中应清楚地阐明要求**承包商**承担的任何设计，包括要随投标书提交的任何设计建议的范围。如无此要求，应删除**承包商**的投标设计的内容。

如果无**工程量表**，则删除有关内容。

如果需要构成合同的附加文件，例如**承包商**提交的资料表，这些应由**雇主**提出增加。对每种文件应考虑所要求的优先性。

如果使用**中标函**，应给予其高优先次序，例如，随**协议书**一起使用，或代替**协议书**的位置。

- 1.1.7     **"Commencement Date"**. The starting date for the Contract is 14 days after the date when the Contractor receives the Agreement signed by the Employer, unless the Parties agree otherwise.
- 1.1.14    **"Force Majeure"** may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as all of the four conditions stated in the definition have been satisfied:

a)     war, hostilities (whether war be declared or not), invasion, act of foreign enemies,

b)     rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,

c)     riot, commotion, disorder, strike or lockout by persons other than the Contractor's personnel and other employees,

d)     munitions of war, explosive materials, ionising radiation or contamination by radioactivity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and

e)     natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.
- 1.1.19    **"Works"**. The term "Works" is intended to cover all the obligations of the Contractor, including any design and the remedying of defects.
- 1.5       **Communications**. The problem of languages is addressed by requiring the important communications such as notices and instructions to be in the language stated in the Appendix. Otherwise there is no "Ruling Language". Any arbitration will be conducted in the specified language.
- 1.6       Changes to the law after the date of the Contractor's offer are at the Employer's risk and any delay or additional cost are recoverable by the Contractor. If the law of the Contract is not the law of the Country, then Sub-Clause 6.1 should be changed in the Particular Conditions.

The Employer

- 2.1       Unless the Parties have agreed otherwise, the Site must be handed over by the Employer to the Contractor on the Commencement Date. This is 14 days after the Contract has come into effect, which occurs when the signed Agreement has been returned by the Employer to the Contractor (see also Sub-Clause 1.1.7 above).
- 2.2       If for any reason, permits etc may also be required from places other than the Country, this Sub-Clause could be limited by the addition at the end of the words:

"... in the Country but not elsewhere."
- 2.4       The term **"approval"** is only used in the Conditions in relation to the performance security at Sub-Clause 4.4 and insurances at Sub-Clause 14.1. It is important that risks such as those of poor workmanship or Contractor's design are not transferred to the Employer unintentionally. The Sub-Clause is intended to prevent argument.

Employer's  
Representatives

- 3         Two principles guided the drafting of this Clause. Firstly, the Contractor should know who in an Employer organisation is authorised to speak and

1.1.7 “开工日期”。除非双方另有协议，合同的开始日期是承包商收到雇主签字的协议书的日期后第 14 天。

1.1.14 “不可抗力”。可能包括，但不限于只要满足定义中说明的四个条件的，下列各种异常事件或情况：

- a) 战争、敌对行动(不论宣战与否)、入侵、或外敌行为；
- b) 叛乱、恐怖主义、革命、暴动、军事政变或篡夺政权、或内战；
- c) 承包商人员或其他雇员以外的人员造成的骚动、喧闹、混乱、罢工或停工；
- d) 战争军火、爆炸物资、电离辐射和放射性污染，但可能因承包商使用此类军火、炸药、辐射或放射性引起的除外；以及
- e) 自然灾害，如地震、飓风、台风或火山活动。

1.1.19 “工程”。“工程”一词拟用于覆盖承包商的全部义务，包括任何设计和缺陷修补。

1.5 通信交流。语言问题是通过重要的通信交流如通知和指示，要求采用附录中说明的语言提出的，否则就没有“主导语言”。任何仲裁将以规定的语言进行。

1.6 承包商报价日期后的法律改变应由雇主承担风险，带来的任何延误或额外费用，承包商可获得弥补。如果合同法律不是工程所在国的法律，对第 6.1 款的规定应在专用条件中做出修改。

雇主

2.1 除非各方另有协议，雇主必须在开工日期向承包商移交现场。该日期是合同生效即雇主已将签字的协议书返还给承包商(见前述第 1.1.7 款的规定)的日期后第 14 天。

2.2 如果由于任何原因，不是工程所在国的其他地方也可能要求办许可等，本款可通过在末尾加入下述词语做出限制：

“——在工程所在国而非其他地方。”

2.4 “批准”这一条款仅用于与第 4.4 款履约担保和第 14.1 款保险有关的条件中。重要的是，不合格的工艺或承包商设计的风险不在无意中转移给雇主。本款意在避免争论。

雇主代表

3 指导起草本条的两个原则：一是承包商应知道雇主单位授权谁在任何给定

act for the Employer at any given time. This is achieved by Sub-Clause 3.1: the authorised individual should be named in the Appendix.

Secondly, those Employers who require professional assistance should not be discouraged from doing so and their consultant should have clearly established delegated powers. This is the object of Sub-Clause 3.2. Once appointed, the Employer's representative acts for and in the interests of the Employer. There is no dual role or duty to be impartial. If an impartial Employer's Representative is required with a role similar to the traditional Engineer, then the following words could be used in the Particular Conditions:

"Replace the final sentence of Sub-Clause 3.2 with the following: *"The Employer's Representative shall exercise in a fair and impartial manner the powers of the Employer under or in connection with the following Sub-Clauses: 1.3, 2.3, 4.2, 4.3, 5.1, 7.3, 8.2, 9.1, 9.2, 10.1, 10.2, 10.5, 11.1 to 11.6, 11.8, 12.1, 13.2 and 14.1."*

To the extent that the Employer has delegated powers to an Employer's representative, he should be careful not to exercise such powers himself in order to avoid the risk of conflicting instructions, decisions etc.

The Contractor

- 4.1
- Most contracts do not specify the exact standard required for each element of the Works, so some benchmark standard is needed with which the Contractor is to comply. If a more specific set of standards could be referred to for a particular project, then an amendment in the Particular Conditions would be desirable.
- 4.4
- Performance Security.** Suggested forms of performance bond (surety bond) or bank guarantee have not been provided. If it is felt that the scale of project warrants security by means of a bond, then local commercial practice should dictate the form. Example forms are included with FIDIC's Conditions of Contract for Construction. The amount and a reference to the desired form of any required security should be set out in the Appendix.

Design by Contractor

- 5.1
- As with all design-build contracts it is essential that the Employer's requirements are set out clearly and precisely. The Appendix should indicate to tenderers the Sub-Clause(s) in the Specification that set out the design requirement. Where the Employer procures any part of the design, the responsibility for design will be shared as this Contract makes the Contractor responsible only for design prepared by him. The extent of the Contractor's design obligation should therefore be clearly stated if disputes are to be avoided. The Conditions avoid the confusing concept of approval of design. Designs are submitted and may be returned with comments or rejected. The Employer need not react at all.
- 5.2
- The Contractor's responsibility for his design remains, as is made clear here and in Sub-Clause 2.4. In the event of conflict between the Specification and Drawings and the Contractor's tendered design, the order of priority in the Appendix makes it clear that the Employer's documents prevail. This means that if the Employer prefers the Contractor's tendered solution, the Specification and Drawings should be amended before the Contract is signed by the Parties.

的时间代表雇主讲话和行动，这通过第 3.1 款的规定来实现：被授权的人应在附录中指名。

二是不应劝阻需要专业协助的雇主聘用专业人员，但对咨询工程师应明确所付托的权力，这是第 3.2 款的目的。一旦任命，雇主代表应代表雇主并为其利益行事，但是没有公平的双重角色或职责。如果需要一个与传统工程师类似的公平的雇主代表，可在专用条件中使用下列词语：

第 3.2 款最后一句代以：“雇主代表应以公平和公正的方式行使根据下列条款或与这些条款有关的雇主权力：第 1.3, 2.3, 4.2, 4.3, 5.1, 7.3, 8.2, 9.1, 9.2, 10.1, 10.2, 10.5, 11.1 到 11.6, 11.8, 12.1, 13.2 和 14.1 款。”

在雇主将其权力付托给雇主代表的范围内，他应注意不再自己行使这些权力，以避免指示或决定等相互矛盾的风险。

## 承包商

- 4.1 大部分合同不对工程每一部分所要求的精确标准做出规定，因此需要一些承包商将遵守的基准标准。如果某特定项目需用一套更具体的标准，可在专用条件中做出修改。
- 4.4 履约担保。未提供履约担保(担保保证)或银行保函的建议格式，如果考虑项目的规模需要通过保证的方式提供担保，地方商业惯例应规定有担保范例格式。在FIDIC 施工合同条件中附有范例格式。要求任何担保的金额和希采用格式的说明应在附录中列出。

## 由承包商设计

- 5.1 如同所有的设计-施工合同一样，必需清楚和准确地阐明雇主的要求，附录中应向投标人指明规范中阐明设计要求的条款。如果雇主采购设计的任何部分，设计职责将分担，因为本合同规定承包商只对由他做的设计负责。如果要避免争端，应清楚规定承包商设计义务的范围。本条件避免了批准设计的混乱概念，设计提交后，可能被提出意见退回或被拒绝。雇主完全不必做出反应。
- 5.2 承包商继续对他的设计负责，这一点在此处和第 2.4 款已清楚说明。在规范和图纸与承包商的投标设计之间产生矛盾时，附录中的优先次序清楚说明雇主的文件优先。这意味着如果雇主愿采用承包商投标的解决方案，则在各方签订合同前应修改规范和图纸。

The Contractor will have an absolute obligation to ensure that the parts of the Works designed by him are fit for their purpose, provided that the intended purposes are defined in the Contract. The Employer must therefore make clear in the parts of the Specification that impose design obligations, the intended purposes of the part of the Works to be designed by the Contractor. This should be done even where this seems obvious in order to avoid argument about whether an intended purpose is defined or not.

If a party wishes to protect the intellectual property in his design, provision must be made in the Particular Conditions.

Employer's Liabilities	6.1	This Sub-Clause gathers together in one place the grounds for extension of time under Sub-Clause 7.3 and the grounds for claims under Sub-Clause 10.4. There is no time or claim for bad weather although this could be adjusted in the Particular Conditions if so required.
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Time for Completion	7.2	The Appendix should stipulate any particular requirements as to the form and level of detail of programme to be submitted. Where Contractor's design is required, the Appendix could stipulate that the programme should show the dates on which it is intended to prepare and submit drawings etc.
	7.3	The test for entitlement to an extension of time is whether it is appropriate. This means that if an event under Sub-Clause 6.1 caused critical delay to the Works and it is fair and reasonable to grant an extension of time, the Employer should do so. An extension of time should not be granted to the extent that any failure by the Contractor to give an early warning notice under Sub-Clause 10.3 contributed to the delay.
	7.4	There is a maximum amount which the Contractor is liable to pay for late completion specified in the Appendix. 10% of the sum stated in the Agreement is suggested.

Taking-Over	8.2	In line with normal practice, it is not envisaged that the Works need be 100% complete before the Employer may take over. Once the Works are ready to be used for their intended purpose, the notice should be given. There is no provision for taking-over of only parts of the Works but if this is required, provision should be made in the Particular Conditions.
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If any tests are required to be completed prior to taking-over, these should be specified in the Specification. The definition of Works is broad enough to include any such tests.

Remedying Defects	9.1	There is no defined Defects Liability Period but during the period - normally 12 months - from the date of taking-over, the Employer may notify the Contractor of defects. The Contractor must remedy such defects within a reasonable time. If he fails to do so, the Employer may employ others for that purpose at the Contractor's cost. The Employer may also notify defects at any time prior to taking-over.
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The liability of the Contractor for defects will not normally end with the expiry of the period stated in the Appendix. Although he is then no longer obliged

如果合同中确定了预期目的，承包商有绝对义务确保其设计的工程部分适应它们的目的。因此雇主必须在规范中规定设计义务的部分清楚解释由承包商设计的工程部分的预期目的。为了避免关于是否确定了预期目的的争端，即使预期目的看来是明显的，还是要这样做。

如果一方希望保护其设计中的知识产权，必须在专用条件中做出规定。

雇主责任

- 6.1 本款将承包商根据第 7.3 款的规定要求延长工期的依据和根据第 10.4 款的规定索赔费用的依据集中在一起。但对恶劣天气没有时间和索赔的规定，如果需要，应在专用条件中对此做出调整。

竣工时间

- 7.2 附录应规定对将提交的进度计划的格式和详细程度的任何具体要求。如果要求承包商设计，附录中可规定进度计划应标明拟编制和提交图纸等的日期。
- 7.3 对有权延长工期要以其是否适当来衡量，这是指如果发生第 6.1 款列举的事项导致对工程的严重延误，给予延长工期是公平和合理的，雇主应给予批准。涉及承包商未能根据第 10.3 款发出提早警告通知导致延误的情况，不应给予工期延长。
- 7.4 在附录中对承包商延期竣工规定有负责支付的最大金额。建议采用协议书提出的总额的 10%。

接收

- 8.2 按照一般惯例，在雇主接收前，并不设想工程要完成 100%。一旦工程达到可按预期目的使用，应发出通知。对只接收部分工程未做出规定，但如果需要，应在专用条件中做出规定。

如果在接收前要求完成任何试验，则应在规范中对此做出规定。工程的定义广至足以包括任何此类试验。

修补缺陷

- 9.1 没有规定的缺陷责任期限，但在从接收日期起的一定期限内通常为 12 个月，雇主可向承包商发出缺陷通知。承包商必须在合理时间内修补此类缺陷。如果未能这样做，雇主可为此雇用他人，并由承包商承担费用。雇主也可在接收前的任何时间通知缺陷。

承包商对缺陷的责任通常不会随附录中规定的期限期满而结束，尽管那



to return to Site to remedy defects, the defect represents a breach of contract for which the Contractor is liable in damages. This liability remains for as long as the law of the Contract stipulates, often 3, 6 or 10 years from the date of the breach. If this long-term liability is to be reduced or eliminated, a Clause in the Particular Conditions is required.

Variations and Claims

- 10.1
- Variation is defined to include any change to the Specification or Drawings included in the Contract. If the Employer requires a change to part of the Works designed by the Contractor either as part of his tender or after the Contract was awarded, then this is to be done by way of an addition to the Specification or Drawings which by Sub-Clause 5.2 will prevail over Contractor's design.
- 10.2
- This Sub-Clause sets out alternative procedures for the valuation of Variations, to be applied in the order of priority given. It applies equally to omissions as to additional works.

a)

A lump sum should be the first method to be considered as it can encompass the true cost of a Variation and avoid subsequent dispute over the indirect effect. The Employer can invite the Contractor to submit an itemised make-up (Sub-Clause 10.5) before instructing the Variation so that an agreed lump sum can form part of the instruction.

b)

Alternatively, a more traditional approach can be taken by valuing the Variation at rates in the bill of quantities and any schedules, or

c)

using these rates as a basis, or

d)

using new rates.

e)

Daywork rates are normally used when the Variation is of an indeterminate nature or is out of sequence with the remaining Works. To ensure reasonable daywork rates, provision should be made for these to be priced competitively in the tender documents.
- 10.3
- This Sub-Clause and Sub-Clause 10.5 require the Contractor to notify the Employer of events promptly and to detail any claim within 28 days. If the effects of the event are increased or if the ability of the Employer to verify any claim is affected by the failure to notify, then the Employer is protected.

Contract Price and Payment

- 11.1
- Normally only one of the options in the Appendix should be used to indicate how the sum in the offer is be calculated and presented. The following explains what is intended:
- Lump sum price

A lump sum offer without any supporting details. This would be used for very minor works where Variations are not anticipated and the Works will be completed in a short period requiring only one payment to the Contractor.
- Lump sum price with schedule of rates

A lump sum offer supported by schedules of rates prepared by the tenderer. This would be a larger contract where Variations and stage payments would be required. If the Employer does not have the resources to prepare his own bill of quantities then this alternative would be suitable.

时**承包商**没有义务返回现场修补缺陷，但缺陷意味着违反合同，**承包商**对此要负责损害赔偿费。这一责任要延至合同法律规定的期限，通常是从违约之日起3、6或10年。如果要减少或取消这一长期责任，需在专用条件中增加一款。

**变更和索赔**

- 10.1 变更定义为对包括在合同中的规范和图纸的任何改变。如果雇主要求对**承包商**作为其投标书一部分或在授予合同后的设计的工程部分做出改变，可通过在规范和图纸中加入部分内容做出改变，按第5.2款，规范或图纸将优先于**承包商**的设计。
- 10.2 本款阐明了变更估价的备选程序，按规定的优先次序使用。它同样适用于对工程的增加和删减。
- a) 总价应是首先考虑的方法，因其能涵盖变更的实际费用，并避免随后对间接影响的争端。雇主可以在指示变更前请**承包商**提交费用分项构成表(第10.5款)，以便能在指示中列入达成协议的总额；
  - b) 替代地，可采用更传统的方法，按工程量表或任何资料表中的费率进行变更估价；或
  - c) 使用这些费率作为估价的基础；或
  - d) 使用新费率；
  - e) 当变更具有不确定性或在未完工程顺序之外时，通常采用计日工作费率。为确保合理的计日工作费率，应在招标文件中对这些费率要进行竞价做出规定。
- 10.3 本款和第10.5款要求**承包商**迅速将索赔事件通知雇主，并在28天内提出任何索赔的详细说明。如果由于未能发出通知，事件的影响增加，或影响雇主核实任何索赔的能力，则雇主受到保护。

**合同价格和付款**

- 11.1 通常仅应使用附录中的一种备选估价方法表明报价中的总额是怎样计算和提出的。几种方法的意图说明如下：

<b>总额价格</b>	总额价格不附任何详细依据资料。这种方法适用于非常小的、预期不会有变更、能在短期内完成、只需向 <b>承包商</b> 一次付款的工程。
<b>附总额价格费率表</b>	总额价格以投标人编制的费率表为依据，适用于较大的、会有变更和需分阶段付款的合同。如果雇主没有人力编制自己的工程量表，选择这种方法可能是合适的。

Lump sum price with bill of quantities	A lump sum offer based on bill of quantities prepared by the Employer. This would be the same as last but where the Employer has the resources to prepare his own bill of quantities. A better contract would result with an Employer's bill of quantities.
Remeasurement with bill of quantities	A sum subject to remeasurement at the rates offered by the tenderer in the bill of quantities prepared by the Employer. This would be the same as last but would suit a contract where many changes are envisaged to the Works after the Contract has been awarded.
Cost reimbursable	An estimate prepared by the tenderer which will be replaced by the actual cost of the Works calculated in accordance with the terms set by the Employer. This would suit a project where the extent of work cannot be ascertained before the Contract is placed. An example of this would be an emergency reconstruction of a building damaged by fire.

However, if for some special reason, more than one option is selected, for example there is a remeasurable element in a lump sum Contract, then the details should be carefully defined.

The Foreword indicates that this Short Form of Contract is intended for works of short duration. In the event of a contract for works of long duration, a new clause could be inserted at Sub-Clause 11.1 to adjust for the rise and fall in the cost of labour, materials and other imports to the Works. Such a clause could be adapted from the other FIDIC Conditions of Contract.

- 11.2

If the Contract is for a lump sum, consideration should be given as to how the work is to be valued for the purposes of interim payments. In completing the Appendix for Sub-Clause 11.1, the Employer may request tenderers to submit a cash flow forecast linked to a stage payment proposal for agreement. This would be reviewed in the event of an extension of time made in accordance with Sub-Clause 7.3.

Alternatively, interim payment can be based on valuation of the Works which would also be appropriate for remeasurement and cost reimbursable Contracts. Payment could also be based on the achievement of milestones or a schedule of activities to which values are assigned.

If local law or practice so dictates, an invoice may also be required, in which case it could be submitted with the statement.

- 11.3

No provision is made for advance payments. If such a payment is to be made, there should be provision in the Particular Conditions and for any security to be provided by the Contractor. An example form of advance payment guarantee is to be found in FIDIC's Conditions of Contract for Construction.
- 11.4

The deduction of retention is sometimes replaced by the provision of security by the Contractor to the Employer. Alternatively, the entire retention

**附总额价格工程量表** 总额价格依据雇主编制的工程量表。实际上与前一种一样，只是雇主有力量编制自己的工程量表。附有雇主的工程量表会产生更好的合同。

**用工程量表的再测量** 总额是以投标人按雇主编制的工程量表所报的费率进行再测量。这种方法与前一种基本相同，只是更适用于预计在授予合同后工程会发生多次改变 的合同。

**可补偿费用** 投标人编制的价格估算将以按雇主提出的条件计算的工程实际费用代替。这种方法适用于在订合同前不能确定工作范围的项目。被火烧毁的建筑物的紧急重建就是一个例子。

如果由于某种特殊原因，选择了一种以上的方法，例如在总额合同中有再测量的工作内容，则应仔细确定细节。

前言中指出本简明合同拟用于工期短的工程。如果是工期较长的工程合同，可在第 11.1 款增加新的子句，以对劳力、材料和为工程进口的其他物资的费用升降进行调整。此类子句可根据 FIDIC 其他合同条件改写。

- 11.2 如果合同采用总额价格，需考虑如何为期中付款进行工作估价。对填写附录中关于第 11.1 款的内容，雇主可以要求投标人提交与阶段付款建议联系的现金流预测，以便商定。在按照第 7.3 款的规定给予工期延长的情况下，此预测可能需要审核。

替代地，期中付款可根据可能也适用于再测量和可补偿费用合同的工程估价方法。付款也可以以里程碑完成情况或指定价值的各项活动的进度表为根据。

如果当地法律或惯例有此规定，还可能需 要发票，在这种情况下，发票应随报表一起提交。

- 11.3 对预付款未做出规定。如果需要支付预付款，应在专用条件中对支付预付款和承包商要提交的任何担保做出规定。预付款保函范例格式见 FIDIC 施工合同条件。

- 11.4 保留金的扣减有时可用承包商向雇主提供的担保代替。替代地，在工程

sum deducted is released after taking-over upon the provision by the Contractor of security. In either event, suitable text would be required in the Particular Conditions. An example form of retention guarantee is to be found in FIDIC's Conditions of Contract for Construction.

- 11.5 The release of the second part of the retention will serve as confirmation that all notified defects have been remedied.
- 11.7 It is assumed that payments will be in a single currency. If this is not the case, the proportions of different currencies should be stated in the Appendix and provision made in the Specification or the Particular Conditions as to how payment is to be made.

Default

- 12.1 The Employer may terminate the Contract if the defaulting Contractor does not respond to a formal notice by taking all practicable steps to put right his default. This recognises that not all defaults are capable of correction in 14 days. If termination takes place, the Employer may take over and use the Contractor's Equipment to complete the Works. Care should be taken, however, if the equipment on Site is hired: no specific provision is made to cover this situation and the Employer is unlikely to be able to retain such equipment.
- 12.2 This provision provides the Contractor's main remedy for non-payment. 7 days after the Employer's receipt of a default notice, which must refer to Sub-Clause 12.2, the Contractor may suspend all or part of his work. 21 days later the option to terminate arises if the Employer persists with non-payment or other default. The Contractor must use his right to terminate within 21 days or lose it. This is to prevent a party abusing a right to terminate in his dealings with the other party for the remainder of the project.  
  
If Contractor's Equipment is essential for the safety or stability of the Works, the Employer will be obliged to agree terms with the Contractor for the retention of such equipment. Local law will often protect the Employer from the immediate and reckless removal of essential items.
- 12.3 The right of the Employer to retain the Contractor's Equipment may clash with the right of a liquidator or receiver to realise the assets of an insolvent Contractor. Reference to the applicable law would be necessary.
- 12.4 This Sub-Clause enables the financial aspects of the Contract to be resolved quickly and without the necessity to await the completion of the Works by others. By specifying the damages payable to the innocent party for the defaults leading to the termination, much delay, complication and scope for dispute are avoided. The Employer's costs in obtaining a replacement contractor will generally be higher than the Contractor's loss of profit.

Risk and Responsibility

- 13.1 Although the Contractor is responsible for the Works prior to taking-over, he is protected by the obligation to insure the Works under Clause 14 and by his ability to recover under Clause 6 his Cost if one of the Employer's Liabilities occurs.
- 13.2 To qualify as Force Majeure, events must prevent performance of an obligation. See also the definition at Sub-Clause 1.1.14. Notice must be given at once.

接收后根据**承包商**提交的担保，将扣减的全部保留金总额放还**承包商**。无论怎样，在**专用条件**中做出恰当的论述可能是需要的。**保留金保函**的范例格式见 **FIDIC 施工合同条件**。

- 11.5 放还第二部分保留金表示确认对通知的全部缺陷已修补完。
- 11.7 假定支付将用一种货币。如果不是这样，应在**附录**中规定不同货币的比例，并在**规范**或**专用条件**中对如何付款做出规定。

违约

- 12.1 如果违约的**承包商**没有对正式通知做出反应，通过采取所有可行的步骤纠正其违约，**雇主**可终止合同。这是承认全部违约不一定都能在 14 天内纠正。如果发生终止，**雇主**可接收和使用**承包商**设备完成工程。但应注意，如果**现场**施工设备是租赁的，没有针对这种情况做出特别规定，**雇主**未必能保留此类设备。
- 12.2 本款规定对**承包商**未得到付款提供了重要的补救办法。如果**雇主**收到参照第 12.2 款的规定发出的违约通知后 7 天后，**承包商**可以暂停其全部或部分工作。如果**雇主**坚持不予支付或坚持其他违约，21 天后可进一步选择终止。**承包商**必须在 21 天内使用其终止的权利，否则将失去此权利。这是为了防止一方在项目的剩余部分处理与另一方关系时，滥用终止的权利。

如果**承包商**设备关系到工程的安全和稳定，**雇主**将不得不为保留此类设备与**承包商**达成协议。当地法律将常常保护**雇主**避免这些必需的设备立即和轻率地撤走。
- 12.3 **雇主**保留**承包商**设备的权利可能与清算人或接受人对无力偿债的**承包商**的资产得以变现的权利相冲突。可能需要参考适用的法律。
- 12.4 本款使得合同的财务方面能够尽快地得到解决，不必等到其他人完成工程。通过对导致终止的违约做出应向无辜一方支付损害赔偿费的规定，可避免更多的延误、争端的复杂化和扩大化。**雇主**更换**承包商**的费用通常比**承包商**的利润损失更高。

风险和职责

- 13.1 虽然**承包商**在接收前应对工程负责，但他受到根据第 14 条规定的，对工程投保的义务的保护，以及根据第 6 条，如果发生**雇主**责任之一时可以收回其成本的规定的保护。
- 13.2 为了证明是不可抗力，必须是阻碍某项义务履行的事件，并参见第 1.1.14 款的定义。通知必须立即发出。

Insurance	14.1	<p>The Employer should set out his precise requirements in the Appendix. Third Party, public liability insurance would normally be mandatory. As smaller contracts are likely to fall within tenderers' standing Contractors' All Risk (CAR) insurance policies, tenderers should generally be asked to submit details of their insurance cover with their tenders.</p> <p>Any requirements for insurance after the date of the Employer's notice under Sub-Clause 8.2, or arising from taking-over parts of the Works, should be covered by Particular Conditions. See also Clause 13.</p> <p>If the Employer wishes to take out the insurances instead of the Contractor, the following should be used as a Particular Condition in place of Sub-Clause 14.1:</p> <p style="padding-left: 40px;"><i>"Replace the text of Sub-Clause 14.1 with the following: "The Employer shall, prior to the Commencement Date, effect insurance in the joint names of the Parties of the types, in the amounts and with the exclusions stipulated in the Appendix. The Employer shall provide the Contractor with evidence that any required policy is in force and that the premiums have been paid."</i></p> <p>Sub-Clauses 14.2 and 14.3 should be deleted if the Employer takes out the insurances.</p> <p>It should be noted that in the event of the Employer's failure to insure, the Contractor may give notice under Sub-Clause 12.2.</p>
Resolution of Disputes	15.1	<p>There are advantages in appointing an adjudicator from the outset even though the adjudicator may not be required to take any action or earn any fee unless and until a dispute is referred to him. Delays will inevitably occur if the parties initiate the procedure to appoint an adjudicator only when a dispute has arisen. It is therefore recommended that the Employer propose a person to act as adjudicator either at tender stage or shortly after the Agreement is signed and that the matter is discussed and agreed as soon as possible.</p> <p>Care should be taken about whether an adjudicator should be local or from a neutral country. Although the adjudicator should be impartial, the costs of employing someone from a third country could be disproportionate if it is necessary for the adjudicator to visit or if a hearing became necessary. However, in view of the costs involved in arbitration, even of minor disputes, any extra cost of a truly impartial adjudicator is a recommended investment.</p> <p>It is intended that all decisions made by the Employer or his representative should be capable of being reviewed by an adjudicator and, if required, by an arbitrator.</p>
	15.3	<p>Arbitration may not be commenced unless the dispute has first been the subject of an adjudication. The Rules of arbitration should be stipulated in the Appendix. The UNCITRAL Rules are recommended. However, if administered arbitration is required, that is arbitration overseen and administered by an arbitral institution, the ICC Rules could be specified. The ICC Court of Arbitration and its Secretariat in Paris appoints and replaces arbitrators, checks the form of terms of reference and awards and generally monitors progress and the performance of arbitrators. Where alternative</p>

保险

14.1 雇主应在附录中阐明其准确的要求。第三方，公共责任险通常是强制性的。由于一些较小的合同可能包括在投标人长期的承包商一切险 (Contractor's All Risk, CAR) 保险单范围内，通常应要求投标人随其投标书提交其保险范围的详细内容。

雇主根据第 8.2 款的规定发出通知的日期后，或由于接收部分工程产生的对保险的任何要求，均应在专用条件中说明。并参见第 13 条。

如果雇主想代替承包商自己办理保险，应用下列内容作为专用条件代替第 14.1 款：

“用下列内容代替第 14.1 款：“雇主应在开工日期前，以双方联合名义并按附录中规定的保险类型、金额和除外责任投保，雇主应向承包商提供证据证明所要求的任何保险单已生效并已支付保险费。”

如果雇主办理保险，应删除第 14.2 款和第 14.3 款。

应注意，如果雇主未能办理保险，承包商可根据第 12.2 款的规定发出通知。

争端的解决

15.1 即使直到将争端提交裁决员前，并不需要裁决员采取任何行动或向其支付任何酬金，从一开始就任命一名裁决员有很多优点。如果各方仅当争端已经发生时，才启动任命裁决员的程序，将不可避免地产生延误。因此建议雇主在招标阶段或签订协议书后不久提出由某人任裁决员的建议，并就此事尽快协商达成一致。

应注意是选择当地的，还是中立国的裁决员。虽然裁决员都应是公平的，但如果裁决员需要视察或举行意见听取会，选择第三国的裁决员费用要高得多。然而考虑到仲裁的费用，即使是小的争端，花任何超额费用聘用一位真正公平的裁决员也是值得的。

希望雇主或其代表做出的全部决定都应能由裁决员和仲裁员(如需要)重新审查。

15.3 除非争端先提交裁决，不能开始仲裁。仲裁规则应在附录中规定。建议采用联合国国际贸易法委员会(UNCITRAL)仲裁规则。然而，如果要求实行有管理的仲裁，即由一个仲裁机构监督和管理仲裁，可规定采用国际商会(ICC)仲裁规则。ICC 仲裁庭和在巴黎的秘书处指定和更换仲裁员，检查委托任务的格式和裁定书，并对仲裁员的进度和工作情况进行一般监督。如果选择另外的包括任命仲裁员程序的



arbitration rules are chosen that include a procedure for the appointment of an arbitrator, the authority designated in the Appendix to make the appointment should be changed to reflect this. For example, if ICC Rules are chosen, then the appointing authority should normally be changed to "ICC Court of Arbitration". The place of arbitration is significant as the arbitration law of the place of arbitration will apply in such matters as the ability of a party to appeal.

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仲裁规则，附录中所指定的任命仲裁员的机构应做出相应改变。例如，如果选择ICC 仲裁规则，则任命机构通常应改为“ICC 仲裁庭”。仲裁地点是重要的，因为仲裁地的仲裁法律将在一些事项如一方的上诉能力上产生影响。

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Notes