

菲迪克(FIDIC)文献译丛

菲迪克(FIDIC)合同指南

The FIDIC Contracts Guide

国际咨询工程师联合会 编译
中国工程咨询协会

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Peter van der TOGT
Publications manager

[译文]

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出版经理：Peter van der TOGT

继 2002 年出版的适应各类工程、各种承包方式的 4 本新版 FIDIC 合同条件中英文对照本，新版《菲迪克(FIDIC)合同指南》中英文对照本又出版了。至此菲迪克整套新版合同范本和应用指南中译本已全部出齐。这是我国投资建设领域人们关心的一件大事。它将推动我国工程项目管理迈向国际标准，走上新的台阶。

本《菲迪克(FIDIC)合同指南》是对照国际咨询工程师联合会(FIDIC 即菲迪克)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。

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在我国进一步对外开放，加入世界贸易组织的新形势下，加强建设项目的合同管理已成为建设领域的紧迫任务之一。《菲迪克(FIDIC)合同指南》和 FIDIC 新版合同条件中译文版的出版，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。也是各专业注册工程师必读的书。

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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.

Today 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.

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菲迪克(FIDIC)简介

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)已有来自于全球各地六十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。

Clause 9 Tests on Completion
9.1 Contractor's Obligations

CONS	P&DB	EPCT
The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [<i>Testing</i>], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause 4.1 [<i>Contractor's General Obligations</i>].	The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [<i>Testing</i>], after providing the documents in accordance with Sub-Clause 5.6 [<i>As-Built Documents</i>] and Sub-Clause 5.7 [<i>Operation and Maintenance Manuals</i>].	The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4, [<i>Testing</i>] after providing the documents in accordance with Sub-Clause 5.6 [<i>As-Built Documents</i>] and Sub-Clause 5.7 [<i>Operation and Maintenance Manuals</i>].
The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.	The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.	The Contractor shall give to the Employer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Employer shall instruct.
	Unless otherwise stated in the Particular Conditions, the Tests on Completion shall be carried out in the following sequence:	Unless otherwise stated in the Particular Conditions, the Tests on Completion shall be carried out in the following sequence:
(a)	pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plant can safely undertake the next stage, (b);	(a) pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plant can safely undertake the next stage, (b);
(b)	commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated safely and as specified, under all available operating conditions; and	(b) commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated safely and as specified, under all available operating conditions; and
(c)	trial operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.	(c) trial operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.
	During trial operation, when the Works are operating under stable conditions, the Contractor shall give	During trial operation, when the Works are operating under stable conditions, the Contractor shall give

第 9 条 竣工试验

9.1 承包商的义务

CONS	P&DB	EPCT
承包商应在按照第 4.1 款[<i>承包商的一般义务</i>] (d) 项的规定, 提供各种文件后, 按照本条和第 7.4 款[<i>试验</i>]的要求进行竣工试验。	承包商在按照第 5.6 款[<i>竣工文件</i>]和第 5.7 款[<i>操作和维修手册</i>]的规定, 提供各种文件后, 按照本条和第 7.4 款[<i>试验</i>]的要求, 进行竣工试验。	承包商应在按照第 5.6 款[<i>竣工文件</i>]和第 5.7 款[<i>操作和维修手册</i>]的要求, 提供各种文件后, 按照本条和第 7.4 款[<i>试验</i>]的要求进行竣工试验。
承包商应提前 21 天将他可以进行每项竣工试验的日期通知工程师。除非另有商定, 竣工试验应在此通知日期后的 14 天内, 在工程师指示的某日或某几日内进行。	承包商应提前 21 天将他可以进行每项竣工试验的日期通知工程师。除非另有商定, 竣工试验应在此通知日期后的 14 天内, 在工程师指示的某日或某几日内进行。	承包商应提前 21 天将他可以进行每项竣工试验的日期通知雇主。除非另有商定, 竣工试验应在此通知日期后的 14 天内, 在雇主指示的某日或某几日内进行。
	除非专用条件中另有说明, 竣工试验应按下列顺序进行:	除非在专用条件中另有说明, 竣工试验应按下列顺序进行:
(a)	启动前试验, 应包括适当的检验和 ("干" 或 "冷") 性能试验, 以证明每项生产设备能够安全地承受下一阶段 (b) 项试验;	(a) 启动前试验, 应包括适当的检验和 ("干" 或 "冷") 性能试验, 以证明每项生产设备能够安全地承受下一阶段 (b) 项试验;
(b)	启动试验, 应包括规定的操作试验, 以证明工程或单位工程能够在所有可利用的操作条件下安全地操作; 以及	(b) 启动试验, 应包括规定的操作试验, 以证明工程或单位工程能够在所有可利用的操作条件下安全地操作; 以及
(c)	试运行, 应证明工程或单位工程运行可靠, 符合合同要求。	(c) 试运行, 应证明工程或单位工程运行可靠, 符合合同要求。
	在试运行期间, 当工程正在稳定条件下运行时,	在试运行期间, 当工程正在稳定条件下运行时,

CONS	P&DB	EPCT
notice to the Engineer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Schedule of Guarantees.	notice to the Employer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Performance Guarantees.	notice to the Employer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Performance Guarantees.
In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Engineer.	Trial operation shall not constitute a taking-over under Clause 10 [Employer's Taking Over]. Unless otherwise stated in the Particular Conditions, any product produced by the Works during trial operation shall be the property of the Employer.	Trial operation shall not constitute a taking-over under Clause 10 [Employer's Taking Over]. Unless otherwise stated in the Particular Conditions, any product produced by the Works during trial operation shall be the property of the Employer.
	In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed each of the Tests on Completion described in sub-paragraph (a), (b) or (c), the Contractor shall submit a certified report of the results of these Tests to the Engineer.	In considering the results of the Tests on Completion, appropriate allowances shall be made for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed each of the Tests on Completion described in sub-paragraph (a), (b) or (c), the Contractor shall submit a certified report of the results of these Tests to the Employer.

YB 28; DB 9.1

The Tests on Completion are the tests which are required by the Employer in order to determine whether the Works (or a Section, if any) have reached the stage at which the Employer should take over the Works or Section. Tests on Completion must be specified in detail in the Contract: in CONS' Specification, in P&DB's Employer's Requirements and (possibly) Contractor's Proposal, and in EPCT's Employer's Requirements and (possibly) the Tender. Under P&DB or EPCT, these Tests would normally include some performance tests, in order to determine whether the Works or Section comply with specified performance criteria.

Typically, Tests on Completion are specified in the Contract to a considerable extent of detail. Therefore, the report required by the last sentence of the Sub-Clause is usually necessary. Clause 9 is intended to be applicable to any type of tests which the Contractor is required to carry out at completion, before the taking-over procedures described in Clause 10.

CONS

在考虑竣工试验结果时, 工程师应考虑到因雇主对工程的任何使用, 对工程的性能或其他特性产生的影响。一旦工程或某单位工程通过了竣工试验, 承包商应向工程师提供一份经证实的试验结果的报告。

P&DB

承包商应通知工程师, 告知工程已可以做任何其他竣工试验, 包括各种性能试验, 以证明工程是否符合雇主要求中规定的标准和履约保证。

试运行不应构成第 10 条[雇主接收]规定的接收。除非专用条件中另有说明, 工程在试运行期间生产的任何产品应属于雇主的财产。

在考虑竣工试验结果时, 工程师应考虑到因雇主对工程的任何使用, 对工程的性能或其他特性产生的影响。一旦工程或某单位工程通过了本款(a), (b)和(c)项中的每项竣工试验, 承包商应向工程师提供一份经证实的试验结果的报告。

EPCT

承包商应通知雇主, 告知工程已可以做任何其他竣工试验, 包括各种性能试验, 以证明工程是否符合雇主要求中规定的标准和履约保证。

试运行不应构成第 10 条[雇主的接收]规定的接收。除非专用条件中另有说明, 工程在试运行期间生产的任何产品应属于雇主的财产。

在考虑竣工试验结果时, 雇主应当考虑到因雇主对工程的任何使用, 对工程的性能或其他特性产生的影响。一旦工程或某单位工程通过了本款(a), (b)或(c)项中的每项竣工试验, 承包商应向雇主提供一份经证实的试验结果的报告。

YB 28; RB 9.1

竣工试验是雇主要求的, 为确定工程(或单位工程, 如果有)是否已达到雇主应接收工程或单位工程阶段的试验。竣工试验必须在合同中详细规定: 在CONS的规范要求中, 在P&DB的雇主要求和(可能)承包商的建议书中, 在EPCT的雇主要求和(可能)投标书中。根据P&DB或EPCT, 这些试验一般包括一些性能试验, 以确定工程或单位工程是否符合规定的性能标准。

竣工试验一般在合同中规定得相当详细。因此, 本款最后一句要求的报告通常是必要的。第 9 条拟可适用于要求承包商在竣工后按第 10 条描述的接收程序前, 实施的任何种类的试验。

竣工试验不必涵盖为界定竣工所需的各个方面。通过这些试验只是在接收前要满足的标准(如第 8.2 和 10.1 款规定)的一部分。注意第 7.4 款对这些试验的适用性。

根据 P&DB/EPCT, 雇主可能包括对第 9.1 款最后一句规定的报告的特别要求。竣工试验可能包括电气、液压和机械试验的组合, 通过工程连续运行以决定其可靠的产量和效率。要在了解工程细节, 有的可能在进行试验几年前, 必须写的雇主要求中写出这些性能试验的规范可能更加困难。但不适当的规范可能对工程是否竣工引起争端。一般地规定可能不得不考虑原料

the Works has been achieved. Typically, the provisions might have to take account of the quality and availability of feedstock and other materials, the quality and production rates of the output (product) and of by-products (including treatment and disposal of effluent), and efficiency in the use of power, materials and other resources.

The Contractor may act in advance of substantial completion, and often he would need to do so. He is required to give three weeks' notice of the date when he will be ready to carry out the Tests on Completion. He then carries out the Tests in accordance with Sub-Clauses 7.4 and 9.1, at the agreed times. Unless otherwise agreed, the Tests on Completion are to be carried out (within the period of 14 days) on such days as have been instructed. If no such instruction is given, the first paragraph of Sub-Clause 9.2 becomes applicable.

The Sub-Clause makes no specific mention of the possible addition of tests not provided for in the Contract, because Tests on Completion are defined in Sub-Clause 1.1.3.4 as including additional tests instructed as Variations. It is advisable to seek prior agreement of the consequences of each Variation.

9.2 Delayed Tests

CONS	P&DB	EPCT
If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable. If the Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Engineer. If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.	If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable. If the Tests on Completion are being unduly delayed by the Contractor, the Employer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Employer. If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. These Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.	If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable. If the Tests on Completion are being unduly delayed by the Contractor, the Employer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Employer. If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. These Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

YB 28.3; CB 9.2

和其他材料的质量和供应、产出（产品）及副产品（包括排出物处理与处置）的质量与生产率、以及电力、材料和其他资源使用的效率。

承包商可能在基本竣工前采取行动，通常他需要这样做。他要在准备好进行竣工试验的日期前三周发出通知。而后，他根据第 7.4 款和 9.1 款按商定的时间进行试验。除非另有协议，竣工试验应按指示的此类日期（在 14 天期限

内进行。如果没有给出此类指示，第 9.2 款第一段将适用。

本款没有专门提到合同中没有规定的可能的附加试验，因为竣工试验在第 1.1.3.4 款中定义为包括指示作为变更的附加试验。最好对每项变更的后果争取事先达成协议。

9.2 延误的试验

CONS	P&DB	EPCT
如果雇主不当延误竣工试验，应适用第 7.4 款 [试验] (第 5 段) 和 (或) 第 10.3 款 [对竣工试验的干扰] 的规定。 如果承包商不当延误了竣工试验，工程师可通知承包商，要求在接到通知后 21 天内进行竣工试验。承包商应在上述期限内他能确定的某日或某几日内进行竣工试验，并将该日期通知工程师。 如果承包商未在规定的 21 天内进行竣工试验，雇主人员可自行进行这些试验。试验的风险和费用应由承包商承担。这些竣工试验应被视为是承包商在场时进行的，试验结果应认为准确，予以认可。	如果雇主不当延误竣工试验，应适用第 7.4 款 [试验] (第 5 段) 和 (或) 第 10.3 款 [对竣工试验的干扰] 的规定。 如果承包商不当延误竣工试验，工程师可通知承包商，要求在接到通知后 21 天内进行竣工试验。承包商应在上述期限内他能确定的某日或某几日内进行竣工试验，并将该日期通知工程师。 如果承包商未在规定的 21 天内进行竣工试验，雇主人员可自行进行这些试验。试验的风险和费用应由承包商承担。这些竣工试验应被视为是承包商在场时进行的，试验结果应认为准确，予以认可。	如果雇主不当延误竣工试验，应适用第 7.4 款 [试验] (第 5 段) 和 (或) 第 10.3 款 [对竣工试验的干扰] 的规定。 如果承包商不当延误竣工试验，雇主可通知承包商，要求在接到通知后 21 天内进行竣工试验。承包商应在上述期限内他可以确定的某日或某几日内进行竣工试验，并将该日期通知雇主。 如果承包商未在规定的 21 天内进行竣工试验，雇主人员可自行进行这些试验。试验的风险和费用应由承包商承担。这些竣工试验应被视为是承包商在场时进行的，试验结果应认为准确，予以认可。

YB 28.3; RB 9.2

If the Tests on Completion are delayed by the Employer, the immediate effect is the applicability of Sub-Clause 7.4. If the delay is excessive, Sub-Clause 10.3 becomes applicable, which entitles the Contractor to compensation for carrying out Tests on Completion during the Defects Notification Period.

It is unusual for the Tests on Completion to be delayed by the Contractor. In that event, the Employer's Personnel may, after notice has been given in accordance with this Sub-Clause, make their own arrangements to carry out the Tests. The Contractor should first be given the opportunity to rectify his default, in accordance with the second paragraph of the Sub-Clause. If Tests on Completion are thereafter carried out by the Employer's Personnel, the Contractor is required to accept the results of the Tests, although he is not entitled to receive a report.

Employer's Personnel are not obliged to carry out these Tests, and may consider that it would be unwise to do so.

9.3 Retesting

CONS	P&DB	EPCT
If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [<i>Rejection</i>] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.	If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [<i>Rejection</i>] shall apply, and the Employer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.	If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [<i>Rejection</i>] shall apply, and the Employer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.
YB 28.5; OB 9.3		

If tests are repeated after the cause of previous failures has been remedied, and it seems likely that other (related) work may have been affected by the remedial

work, that other work may therefore need to be retested.

9.4 Failure to Pass Tests on Completion

CONS	P&DB	EPCT
If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [<i>Retesting</i>], the Engineer shall be entitled to:	If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [<i>Retesting</i>], the Employer shall be entitled to:	If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [<i>Retesting</i>], the Employer shall be entitled to:
(a) order further repetition of Tests on Completion under Sub-Clause 9.3;	(a) order further repetition of Tests on Completion under Sub-Clause 9.3;	(a) order further repetition of Tests on Completion under Sub-Clause 9.3;
(b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as	(b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as	(b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as

如果竣工试验被雇主延误，直接的结果是要适用第 7.4 款。如果延误时间过长，则适用第 10.3 款，该款使承包商有权为在缺陷通知期限内进行竣工试验得到补偿。

承包商延误竣工试验的情况很少见。在这种情况下，雇主人员可在按照本款发出通知后，自己作出安排进行试验。按照本款第二段，应首先给承包商机会修正其违约。如果此后竣工试验由雇主人员进行，承包商要接受试验结果，尽管他无权得到报告。

9.3 重新试验

CONS	P&DB	EPCT
如果工程或某单位工程未能通过竣工试验，应用第 7.5 款 [<i>拒收</i>] 的规定，工程师或承包商可要求按相同的条款和条件，重新进行此项未通过的试验和相关工程的竣工试验。	如果工程或某单位工程未能通过竣工试验，应用第 7.5 款 [<i>拒收</i>] 的规定，工程师或承包商可要求按相同的条款和条件，重新进行此项未通过的试验和相关工程的竣工试验。	如果工程或某单位工程未能通过竣工试验，应用第 7.5 款 [<i>拒收</i>] 的规定，雇主或承包商可要求按相同的条款和条件，重新进行此项未通过的试验和相关工程的竣工试验。

YB 28.5; OB 9.3

如果因前述试验未能通过的原因进行修补后重新试验，可能其他(相关)工作会受到修补工作影响，因此该其他工作可能需要重新试验。

9.4 未能通过竣工试验

CONS	P&DB	EPCT
如果工程或某单位工程未能通过根据第 9.3 款 [<i>重新试验</i>] 的规定重新进行的竣工试验，工程师应有权：	如果工程或某单位工程未能通过根据第 9.3 款 [<i>重新试验</i>] 的规定重新进行的竣工试验，工程师应有权：	如果工程或某单位工程未能通过根据第 9.3 款 [<i>重新试验</i>] 的规定重新进行的竣工试验，雇主应有权：
(a) 下令根据第 9.3 款 [<i>重新试验</i>] 再次重复竣工试验；	(a) 下令根据第 9.3 款再次重复竣工试验；	(a) 下令根据第 9.3 款再次重复竣工试验；
(b) 如果此项试验未通过，使雇主实质上丧失了工程或单位工程的整个利益时，拒收工程或	(b) 如果此项试验未通过，使雇主实质上丧失了工程或单位工程的整个利益时，拒收工程或	(b) 如果此项试验未通过，使雇主实质上丧失了工程或单位工程的整个利益时，拒收工程或

CONS	P&DB	EPCT
the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [<i>Failure to Remedy Defects</i>]; or	the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [<i>Failure to Remedy Defects</i>]; or	the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [<i>Failure to Remedy Defects</i>]; or
(c) issue a Taking-Over Certificate, if the Employer so requests.	(c) issue a Taking-Over Certificate, if the Employer so requests.	(c) issue a Taking-Over Certificate.
In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [<i>Employer's Claims</i>] and Sub-Clause 3.5 [<i>Determinations</i>].	In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [<i>Employer's Claims</i>] and Sub-Clause 3.5 [<i>Determinations</i>].	In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [<i>Employer's Claims</i>] and Sub-Clause 3.5 [<i>Determinations</i>].

YB 28.7; OB 9.4

There is no limit on the number of repetitions which may be ordered, because (after any Test) it may appear that only minor remedial work will be required to overcome the apparent reasons for the failure.

If the Contractor cannot carry out the remedial work, the Employer may apply Clause 15 or seek agreement to a reduction in the Contract Price. Typically, he might first indicate the reduction he would require, and seek the Contractor's agreement prior to the issue of a Taking-Over Certificate. If agreement cannot be reached prior to the issue of the Taking-Over Certificate under sub-paragraph (c), then sub-paragraph (a) or (b) could be applied.

Under P&DB or EPCT, because this Sub-Clause gives no indication that the Test is deemed to have been passed, no Retention Money would be released under Sub-Clause 14.9. If the whole of the Works failed the Test, the first half of

Retention Money might then not be due for release until the same time as the second half of the Retention Money, namely when the Defects Notification Period expires. Sub-Clause 9.4 does not contain all the provisions of P&DB/EPCT 12.4, under which the Contractor may be entitled to decide whether to remedy the defect or simply to compensate the Employer for the failure.

When preparing the tender documents under P&DB or EPCT, the Employer may wish to consider incorporating (in the Particular Conditions), in respect of a failure to pass the Tests on Completion, provisions which:

- permit a Taking-Over Certificate to be issued as described in Sub-Clause 9.4(c), followed by repetition under Clause 12 of the failed Tests on Completion; or
- are similar to those in Sub-Clause 12.4 but are applicable to the Tests on Completion, assuming that there are to be no Tests after Completion.

CONS

单位工程(视情况而定), 在此情况下, 雇主应采取与第 11.4 款[未能修补缺陷](c)项规定的相同补救措施; 或

(c) 如果雇主要求, 颁发接受证书。

在采用(c)项办法的情况下, 承包商应继续履行合同规定的任何其他义务。但合同价格应予减少, 减少的金额应足以弥补此项试验未通过的结果给雇主带来的价值损失。除非对此项试验未通过相应减少的合同价格在合同中另有说明(或规定了计算方法), 雇主可以要求该减少额(Ⅰ)经双方商定(仅限于满足此项试验未通过的要求), 并在此项接收证书颁发前支付, 或(Ⅱ)根据第 2.5 款[雇主的索赔]和第 3.5 款[确定]的规定, 确定并支付。

P&DB

单位工程(视情况而定), 在此情况下, 雇主应采取与第 11.4 款[未能修补缺陷](c)项规定的相同补救措施; 或

(c) 如果雇主要求, 颁发接收证书。

在采用(c)项办法的情况下, 承包商应继续履行合同规定的任何其他义务。但合同价格应予减少, 减少的金额应足以弥补此项试验未通过的结果给雇主带来的价值损失。除非对此项试验未通过相应减少的合同价格在合同中另有说明(或规定了计算方法), 雇主可以要求该减少额(Ⅰ)经双方商定(仅限于满足此项试验未通过的要求), 并在此项接收证书颁发前支付, 或(Ⅱ)根据第 2.5 款[雇主的索赔]和第 3.5 款[确定]的规定, 确定并支付。

EPCT

单位工程(视情况而定), 在此情况下, 雇主应采取与第 11.4 款[未能修补缺陷](c)项规定的相同补救措施; 或

(c) 颁发接受证书。

在采用(c)项办法的情况下, 承包商应继续履行合同规定的任何其他义务。但合同价格应予减少, 减少的金额应足以弥补此项试验未通过的结果给雇主带来的价值损失。除非对此项试验未通过相应减少的合同价格在合同中另有说明(或规定了计算方法), 雇主可以要求该减少额(Ⅰ)经双方商定(仅限于满足此项试验未通过的要求), 并在此项接收证书颁发前支付, 或(Ⅱ)根据第 2.5 款[雇主的索赔]和第 3.5 款[确定]的规定, 确定并支付。

YB 28.7; OB 9.4

对可能指令的重复次数没有限制, 因为(在任何试验后)克服未能通过的明显原因, 看来可能只需要少量修补工作。

如果承包商不能进行修补工作, 雇主可以运用第 15 条, 或争取就减少合同价格达成协议。一般地他可能首先表明他要求的减少额, 并在颁发接收证书前争取承包商的同意。如果根据(c)项在颁发接收证书前不能达成协议, 这时可适用(a)或(b)项。

一半保留金放还时, 即缺陷通知期限期满前, 不应放还。第 9.4 款没有包括 P&DB/EPCT 12.4 的所有规定。根据这些规定承包商有权决定是修补缺陷, 还是只对未通过试验补偿雇主。

在根据 P&DB 或 EPCT 编制招标文件时, 对于未能通过竣工试验, 雇主可能希望考虑(在专用条件中)纳入以下规定:

- 允许按照第 9.4 (c) 款所述颁发接收证书, 而后根据第 12 条对未通过的竣工试验进行重复试验, 或
- 假设无竣工后试验, 而将与第 12.4 款类似的规定适用于竣工试验。

根据 P&DB 或 EPCT, 因为本款未表明认为已通过试验, 所以不会根据第 14.9

10.1 Taking Over of the Works and Sections

CONS

Except as stated in Sub-Clause 9.4 [*Failure to Pass Tests on Completion*], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [*Time for Completion*] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Engineer shall, within 28 days after receiving the Contractor's application:

- issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over

第 10 条 雇主的接收

10.1 工程和单位工程的接收

CONS

除第 9.4 款 [*未能通过竣工试验*] 中所述情况外, 当 (i) 除下面 (a) 项允许的情况以外, 工程已按合同规定, 包括第 8.2 款 [*竣工时间*] 中提出的事项竣工; (ii) 已按照本款规定颁发工程接收证书, 或被认为已颁发时, 雇主应接收工程。

承包商可在他认为工程将竣工并做好准备接收的日期前不少于 14 天, 向工程师发出申请接收证书的通知。如工程分成若干单位工程, 承包商可类似地为每个单位工程申请接收证书。

工程师在收到承包商的申请通知后 28 天内, 应:

- 向承包商颁发接收证书, 注明工程或单位工程按照合同要求竣工的日期, 任何对工程或单位工程预期使用目的没有实质影响的少量收尾工作和缺陷 (直到或当收尾工作和缺陷修补完成时) 除外; 或
- 拒绝申请, 说明理由, 并指出在能颁发接收

P&DB

Except as stated in Sub-Clause 9.4 [*Failure to Pass Tests on Completion*], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [*Time for Completion*] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Engineer shall, within 28 days after receiving the Contractor's application:

- issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over

P&DB

除第 9.4 款 [*未能通过竣工试验*] 中所述情况外, 当 (i) 除下面 (a) 项允许的情况以外, 工程已按合同规定, 包括第 8.2 款 [*竣工时间*] 中提出的事项竣工; (ii) 已按照本款规定颁发工程接收证书, 或被认为已颁发时, 雇主应接收工程。

承包商可在他认为工程将竣工并做好准备接收的日期前不少于 14 天, 向工程师发出申请接收证书的通知。如工程分成若干单位工程, 承包商可类似地为每个单位工程申请接收证书。

工程师在收到承包商的申请后 28 天内, 应:

- 向承包商颁发接收证书, 注明工程或单位工程按照合同要求竣工的日期, 任何对工程或单位工程预期使用目的没有实质影响的少量收尾工作和缺陷 (直到或当收尾工作和缺陷修补完成时) 除外; 或
- 拒绝申请, 说明理由, 并指出在能颁发接收

EPCT

Except as stated in Sub-Clause 9.4 [*Failure to Pass Tests on Completion*], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [*Time for Completion*] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Employer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

The Employer shall, within 28 days after receiving the Contractor's application:

- issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over

EPCT

除第 9.4 款 [*未能通过竣工试验*] 中所述情况外, 当 (i) 除下面 (a) 项允许的情况以外, 工程已按合同规定, 包括第 8.2 款 [*竣工时间*] 中提出的事项竣工; (ii) 已按照本款规定颁发工程接收证书, 或被认为已颁发时, 雇主应接收工程。

承包商可在他认为工程将竣工并做好准备接收的日期前不少于 14 天, 向雇主发出申请接收证书的通知。如工程分成若干单位工程, 承包商可类似地为每个单位工程申请接收证书。

雇主在收到承包商申请通知后 28 天内, 应:

- 向承包商颁发接收证书, 注明工程或单位工程按照合同要求竣工的日期, 任何对工程或单位工程预期使用目的没有实质影响的少量收尾工作和缺陷 (直到或当收尾工作和缺陷修补完成时) 除外; 或
- 拒绝申请, 说明理由, 并指出在能颁发接收

CONS	P&DB	EPCT
Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause. If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application with the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.	Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause. If the Employer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.	Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause. If the Employer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

RB 48.1 & 48.2; YB 29.1 & 29.2; OB 10.1

The Employer is required to take over the Works (or a Section, if any) when they are completed in accordance with the Contract including the matters described in Sub-Clause 8.2:

- (a) "achieving the passing of the Tests on Completion" (Sub-Clause 8.2(a)), and
- (b) "completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1" (Sub-Clause 8.2(b); including the "work which is stated in the Contract" at CONS 4.1(d) or P&DB/EPCT 5.5, 5.6 and 5.7).

but excluding:

- (c) "any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied);" (Sub-Clause 10.1(a))

Under CONS/P&DB, if the Employer wishes to take over and operate the Works before the "work which is stated in the Contract" (in CONS 4.1(d) or P&DB 5.5, 5.6 and 5.7) is complete, the first sentence of CONS/P&DB 10.2 provides him with an appropriate procedure.

The Employer has no right to use the Works if the Contractor has failed to complete them in accordance with the Contract, except after termination. If the

CONS

证书前承包商需做的工作。承包商应在再次根据本款发出申请通知前，完成此项工作。

如果工程师在 28 天期限内既未颁发接收证书，又未拒绝承包商的申请，而工程或单位工程（视情况而定）实质上符合合同规定，接收证书应视为已在上述规定期限的最后一日颁发。

P&DB

证书前承包商需做的工作。承包商应在再次根据本款发出申请通知前，完成此项工作。

如果工程师在 28 天期限内既未颁发接收证书，又未拒绝承包商的申请，而工程或单位工程（视情况而定）实质上符合合同规定，接收证书应视为已在上述规定期限的最后一日颁发。

EPCT

证书前承包商需做的工作。承包商应在再次根据本款发出申请通知前，完成此项工作。

如果雇主在 28 天期限内既未颁发接收证书，又未拒绝承包商的申请，而工程或单位工程（视情况而定）实质上符合合同规定，接收证书应视为已在上述规定期限的最后一日颁发。

RB 48.1&48.2; YB 29.1&29.2; OB 10.1

在工程（或单位工程，如果有）按照合同、包括第 8.2 款描述的以下事项完成后，雇主主要接收它们：

- (a) "竣工试验获得通过"（见第 8.2 (a) 款）；以及
- (b) "完成合同提出的，工程或单位工程按照第 10.1 款[工程和单位工程的接收]规定的接收要求竣工所需要的全部工作。"（第 8.2 (b) 款；包括“合同提出的工作”，在 CONS 4.1 (d)，或 P&DB / EPCT 5.5, 5.6 和 5.7 中。

但不包括：

- (c) "任何对工程或单位工程预期使用目的没有实质性影响的少量收尾工作和缺陷（直到或当收尾工作和缺陷修补完成时）"（第 10.1 (a) 款）。

根据 CONS/P&DB，如果雇主希望在“合同中提出的工作”（在 CONS 4.1 (d)，或 P&DB 5.5, 5.6 和 5.7 中）完成前接收并运行工程，CONS/P&DB 10.2 第一句为他提供了适当程序。

如果承包商未能按照合同竣工，雇主除终止后外无权使用工程。如果工程看来接近完成（不影响工程使用的少量收尾工作除外），但未能通过竣工试验，

可适用第 9.4 款。

根据第 10.1 款第二段，承包商通过书面通知申请接收证书。承包商可以（为了自身利益应该）通过在预计竣工日期前 14 天发出通知提早竣工。这一提前通知使雇主在他希望时，得到额外的时间办理保险，也给雇主人员时间以作出办理接收需要的任何其他安排。

CONS/P&DB 1.3 要求承包商将其通知书抄送雇主，并要求工程师把接收证书抄送雇主。

当工程或单位工程看来接近竣工时，对它们进行联合检验是合乎需要的，联合检验由各方代表和根据 CONS 或 P&DB 规定的工程师进行。检验后进行第 10.1 (a) 和 (b) 款规定的行动。

承包商本应了解到应采取哪些行动，因为其代表已参加了检验。接收证书可用信函的形式：

工程接收证书的范例格式

we hereby certify that the Works were completed in accordance with the Contract on ... [date], except for minor outstanding work and defects [which include those listed in the attached Snagging List and] which should not substantially affect the use of the Works for their intended purpose.

Sample Form of Taking-Over Certificate for a Section

Having received your notice under Sub-Clause 10.1 of the Conditions of Contract,

[name or description of the Section; and state the completion date]

10.2 Taking Over of Parts of the Works

CONS	P&DB	EPCT
The Engineer may, at the sole discretion of the Employer, issue a Taking-Over Certificate for any part of the Permanent Works.	The Engineer may, at the sole discretion of the Employer, issue a Taking-Over Certificate for any part of the Permanent Works.	Parts of the Works (other than Sections) shall not be taken over or used by the Employer, except as may be stated in the Contract or as may be agreed by both Parties.
The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Taking-Over Certificate for this part. However, if the Employer does use any part of the Works before the Taking-Over Certificate is issued:	The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Taking-Over Certificate for this part. However, if the Employer does use any part of the Works before the Taking-Over Certificate is issued:	
(a) the part which is used shall be deemed to have been taken over as from the date on which it is used,	(a) the part which is used shall be deemed to have been taken over as from the date on which it is used,	
(b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and	(b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and	
(c) if requested by the Contractor, the Engineer shall issue a Taking-Over Certificate for this part.	(c) if requested by the Contractor, the Engineer shall issue a Taking-Over Certificate for this part.	
After the Engineer has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor	After the Engineer has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor	

收到贵方根据合同条件第 10.1 款的通知，我们特此证明工程除应对工程按其预期目的使用没有实质影响的少量收尾工作和缺陷 [包括列在所附打磨表中的] 外，已按照合同在……(日期)竣工。

单位工程接收证书的范例格式

[单位工程的名称或说明；并说明竣工日期]

10.2 部分工程的接收

CONS	P&DB	EPCT
在雇主完全自主决定情况下，工程师可颁发永久工程任何部分的接收证书。	在雇主完全自主决定情况下，工程师可颁发永久工程任何部分的接收证书。	除在合同中说明或经双方同意以外，任何部分工程(单位工程以外)，雇主均不得接收或使用。
除非并直到工程师已颁发任何部分工程的接收证书，雇主不得使用该部分工程(除合同规定或经双方同意作为临时措施外)。但是，如果雇主在颁发接收证书前确实使用了任何部分工程，则：	除非并直到工程师已颁发任何部分工程的接收证书，雇主不得使用该部分工程(除合同规定或经双方同意作为临时措施外)。但是，如果雇主在颁发接收证书前确实使用了任何部分工程，则：	
(a) 使用的部分应视为从开始使用的日期起已被接收；	(a) 使用的部分应视为从开始使用的日期起已被接收；	
(b) 承包商应从此日起不再承担该部分的照管责任，应转由雇主负责；以及	(b) 承包商应从此日起不再承担该部分的照管责任，应转由雇主负责；以及	
(c) 如承包商提出要求，工程师应颁发该部分的接收证书。	(c) 如承包商提出要求，工程师应颁发该部分的接收证书。	
工程师颁发部分工程的接收证书后，应使承包商能尽早采取可能必要的步骤，进行任何尚未完成的竣工试验。承包商应在有关缺陷通知期限期满	工程师颁发部分工程的接收证书后，应使承包商能尽早采取可能必要的步骤，进行任何尚未完成的竣工试验。承包商应在有关缺陷通知期限期满	

CONS	P&DB
shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period. If the Contractor incurs Cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit. If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.	shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period. If the Contractor incurs Cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit. If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.
RB 47.2, 48.2 & 48.3; YB 29.3; OB 10.2	

shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

If the Contractor incurs Cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.

RB 47.2, 48.2 & 48.3; YB 29.3; OB 10.2

CONS	P&DB
日期前，尽快进行这些竣工试验。 除合同规定或承包商同意使用的以外，如果由于雇主接收和(或)使用部分工程，导致承包商增加费用，承包商应(i)向工程师发出通知，并(ii)有权要求按照第 20.1 款[承包商的索赔]的规定，对任何此类费用和合理利润计入合同价格，给予支付。工程师收到此通知后，应按照第 3.5 款[确定]的规定，对此项费用和利润，进行商定或确定。	日期前，尽快进行这些竣工试验。 除合同规定或承包商同意使用的以外，如果由于雇主接收和(或)使用部分工程，导致承包商增加费用，承包商应(i)向工程师发出通知，并(ii)有权要求按照第 20.1 款[承包商的索赔]的规定，对任何此类费用和合理利润计入合同价格，给予支付。工程师收到此通知后，应按照第 3.5 款[确定]的规定，对此项费用和利润，进行商定或确定。
如果已经颁发了部分工程(不是单位工程)的接收证书，此后工程剩余部分的竣工工期损害赔偿费应予减少。与此类似，包括该部分的单位工程(如果有)的剩余部分的工期损害赔偿费也应减少。对接收证书注明日期以后的任何延误期，这些工期损害赔偿费的比例减少额，应按已颁发证书部分的价值，占整个工程或单位工程(视情况而定)价值的比例计算。工程师应按照第 3.5 款[确定]的规定，对这些比例进行商定或确定。本段的规定仅适用于第 8.7 款[误期损害赔偿费]规定的工期损害赔偿费的每日费率，不应影响该损害赔偿费的最高限额。	如果已经颁发了部分工程(不是单位工程)的接收证书，此后工程剩余部分的竣工工期损害赔偿费应予减少。与此类似，包括该部分的单位工程(如果有)的剩余部分的工期损害赔偿费也应减少。对接收证书注明日期以后的任何延误期，这些工期损害赔偿费的比例减少额，应按已颁发证书部分的价值，占整个工程或单位工程(视情况而定)价值的比例计算。工程师应按照第 3.5 款[确定]的规定，对这些比例进行商定或确定。本段的规定仅适用于第 8.7 款[误期损害赔偿费]规定的工期损害赔偿费的每日费率，不应影响该损害赔偿费的最高限额。
RB 47.2, 48.2&48.3; YB 29.3; OB 10.2	

日期前，尽快进行这些竣工试验。

除合同规定或承包商同意使用的以外，如果由于雇主接收和(或)使用部分工程，导致承包商增加费用，承包商应(i)向工程师发出通知，并(ii)有权要求按照第 20.1 款[承包商的索赔]的规定，对任何此类费用和合理利润计入合同价格，给予支付。工程师收到此通知后，应按照第 3.5 款[确定]的规定，对此项费用和利润，进行商定或确定。

如果已经颁发了部分工程(不是单位工程)的接收证书，此后工程剩余部分的竣工工期损害赔偿费应予减少。与此类似，包括该部分的单位工程(如果有)的剩余部分的工期损害赔偿费也应减少。对接收证书注明日期以后的任何延误期，这些工期损害赔偿费的比例减少额，应按已颁发证书部分的价值，占整个工程或单位工程(视情况而定)价值的比例计算。工程师应按照第 3.5 款[确定]的规定，对这些比例进行商定或确定。本段的规定仅适用于第 8.7 款[误期损害赔偿费]规定的工期损害赔偿费的每日费率，不应影响该损害赔偿费的最高限额。

Under EPCT, the Employer may only take over the whole of the Works, or Sections defined in the Contract. Any attempt to take over any other part of the Works would normally entitle the Contractor to relief due to the breach of EPCT 10.2 (and probably of EPCT 2.1 also). Therefore, "use or occupation by the Employer" of such a part is not mentioned in EPCT 17.3. The remaining comments on this Sub-Clause apply to CONS and P&DB only.

Under CONS or P&DB, the Employer grants the Contractor possession of the Site in accordance with Sub-Clause 2.1. Taking over a part of the Works brings possession to an end. If the Employer expected to take over any part of the Works, it should have been defined, in the Appendix to Tender, as a Section. Sub-Clause 10.2 covers the possibility that the Employer may later decide to take over a part of the Works other than a Section, before completion of the other parts.

The Employer must first arrange for the issue of a Taking-Over Certificate for the part, recognising that it will reduce his entitlement to delay damages under Sub-Clause 8.7. In some countries, it might prejudice his entire entitlement, because the reduction is to be determined by his appointed Engineer, pro rata to the value of the part. The Laws of some countries require liquidated delay damages to be predetermined, and

not to be subject to assessment by someone appointed by the payee. Under the penultimate paragraph, the Contractor is entitled to recover any reasonable additional Cost incurred due to the Employer taking over part of the Works. No mention is made of any entitlement to extension of the Time for Completion for the Works or any Section, because it is covered by Sub-Clause 8.4(e). Also, no mention is made of extension of time for completion of the part itself, because it has been completed and because there is no "time for completion" for parts of the Works.

The Taking-Over Certificate may be in the form of a letter to the Contractor, with a copy sent to the Employer.

Sample Form of Taking-Over Certificate for Parts of the Works (CONS or P&DB)

We hereby certify, in the terms of Sub-Clause 10.2 of the Conditions of Contract, that the following parts of the Works were completed in accordance with the Contract on the dates stated below, except for minor outstanding work and defects [which include those listed in the attached Snagging List]:

[description of each part taken over, and state its completion date]

10.3 Interference with Tests on Completion

CONS	P&DB	EPCT
If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Employer shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed. The Engineer shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Engineer shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.	If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Contractor shall carry out the Tests on Completion (as the case may be) on the date when the Tests on Completion would otherwise have been completed. The Engineer shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Engineer shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.	If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Contractor shall carry out the Tests on Completion as soon as practicable.

根据 EPCT, 雇主可能只接收整个工程或合同中定义的单位工程。对工程任何其他部分的任何接收企图, 由于违背 EPCT 10.2 (或许还有 EPCT 2.1), 一般会使承包商有权申诉。因此, EPCT 17.3 中没有提到“雇主使用或占用”此类一部分。关于本款其余的解释只适用于 CONS 和 P&DB。

根据 CONS 或 P&DB, 雇主按照第 2.1 款给承包商占用现场的权力。接收部分工程即使这种占有权结束。如果雇主希望接收工程的任何部分, 它应在投标书附录中已定义为单位工程。第 10.2 款包括了雇主以后可以决定在其他部分竣工前接收不是单位工程的部分工程的可能性。

雇主必须首先安排对该部分颁发接收证书, 承认这将减少他根据第 8.7 款要求误期损害赔偿的权力。在一些国家, 这可能损害其整个权力, 因为减少额要由他指定的工程师按照该部分的价值比例决定。一些国家的法律要求事

先确定清偿误期损害赔偿费额, 不必根据由受款人指定人员的估价。

根据倒数第二段, 承包商有权收回由于雇主接收部分工程引起的任何合理的附加费用。没有提到延长工程或单位工程竣工时间的权力问题, 因为它已包含第 8.4 (e) 款中。也没有提到延长该部分本身竣工时间的问题, 因为它已完成, 且没有部分工程的“竣工时间”。

接收证书可以是给承包商信函的形式, 并抄送雇主:

部分工程接收证书范例格式 (CONS 或 P&DB)

我们特此证明, 按照合同条件第 10.2 款, 以下部分工程除少量扫尾工作和缺陷 [包括列在所附打磨表中的] 外, 已按照合同在下述日期竣工:

[接收的每一部分的说明; 并说明其竣工日期]

10.3 对竣工试验的干扰

CONS	P&DB	EPCT
如果由于雇主应负责的原因妨碍承包商进行竣工试验达 14 天以上, 雇主应被视为已在竣工试验原应完成的日期接收了工程或单位工程 (视情况而定)。 这时工程师应相应地颁发接收证书, 承包商应在缺陷通知期限期满日前, 尽快进行竣工试验。工程师应要求竣工试验要提前 14 天发出通知, 并按照合同的有关规定进行。	如果由于雇主应负责的原因妨碍承包商进行竣工试验达 14 天以上, 雇主应被视为已在竣工试验原应完成的日期接收了工程或单位工程 (视情况而定)。 这时工程师应相应地颁发接收证书, 承包商应在缺陷通知期限期满日前, 尽快进行竣工试验。工程师应要求竣工试验要提前 14 天发出通知, 并按照合同的有关规定进行。	如果由雇主应负责的原因妨碍承包商进行竣工试验达 14 天以上, 承包商应尽快地进行竣工试验。

CONS	P&DB	EPCT
If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to: (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.	If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to: (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and (b) payment of any such Cost plus reasonable profit, which shall be added to the Contract Price. After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.	If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Employer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to: (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and (b) payment of any such Cost plus reasonable profit, which shall be added to the Contract Price. After receiving this notice, the Employer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

YB 29.4; OB 10.3

Typically, the Tests on Completion are the events which immediately precede completion and taking over. It is therefore reasonable that, if such Tests (and thus taking over) are prevented by the Employer, he nevertheless becomes responsible for the relevant Works or Section: not just the part.

Under EPCT, this is considered less likely to happen. When it does, a deemed taking-over may be in neither Party's interests.

Under CONS or P&DB, this deemed taking over will apply to the scope of the prevented Tests; i.e., to the Works or Section, whichever would otherwise have been taken over when the prevented Tests had been passed. Even if the prevented Tests were limited to those which should have been carried out on a

Section, they may result in a deemed taking over of the Works, depending upon the relevant circumstances.

If the Contractor suffers delay or incurs Cost, he gives notice under the third paragraph. CONS/P&DB 1.3 requires the Contractor to send a copy of the notice to the Employer.

Sub-paragraphs (a) and (b) describe the Contractor's entitlements in terms which are used elsewhere in the General Conditions. See the Table in this Guide at the end of the commentary on Clause 3, and also the commentaries on Sub-Clauses 8.4 and 20.1.

CONS

如果由于进行竣工试验的此项延误,使承包商遭受延误和(或)招致增加费用,承包商应向工程师发出通知,并应有权根据第 20.1 款[承包商的索赔]的规定要求:

(a) 根据第 8.4 款[竣工时间的延长]的规定,如果竣工已或将受到延误,对任何此类延误给予延长期;以及

(b) 任何此类费用和合理利润,应计入合同价格,给予支付。

工程师收到此通知后,应按照第 3.5 款[确定]的规定,对这些事项进行商定或确定。

P&DB

如果由于进行竣工试验的此项延误,使承包商遭受延误和(或)招致增加费用,承包商应向工程师发出通知,并应有权根据第 20.1 款[承包商的索赔]的规定要求:

(a) 根据第 8.4 款[竣工时间的延长]的规定,如果竣工已或将受到延误,对任何此类延误给予延长期;以及

(b) 任何此类费用和合理的利润,应计入合同价格,给予支付。

工程师收到此通知后,应按照第 3.5 款[确定]的规定,对这些事项进行商定或确定。

EPCT

如果由于进行竣工试验的此项拖延,使承包商遭受延误和(或)招致增加费用,承包商应向雇主发出通知,并应有权根据第 20.1 款[承包商的索赔]的规定要求:

(a) 根据第 8.4 款[竣工时间的延长]的规定,如果竣工已或将受到延误,对任何此类延误给予延长期;以及

(b) 对任何此类费用和合理的利润,应加入合同价格,给予支付。

雇主收到此通知后,应按照第 3.5 款[确定]的规定,对这些事项进行商定或确定。

YB 29.4; OB 10.3

一般地,竣工试验是紧靠竣工和接收前的事件。因此,如果雇主妨碍此类试验(因而影响接收),他仍要对相关工程或单位工程负责;不仅是该部分,这是合理的。

根据 EPCT, 这被认为不大可能发生。如果发生了,视同接收可能不符合任一方的利益。

根据 CONS 或 P&DB, 这一视同接收将适用于受妨碍试验的范围;即适用于工程或单位工程,否则如果受妨碍的试验通过时,这些工程或单位工程可能已

另被接收。即使受妨碍的试验仅限于本应在单位工程上进行的,它们根据有关情况,可能导致视同工程的接收。

如果承包商遭受延误或招致费用,他根据第三段发出通知, CONS/P&DB 1.3 要求承包商将通知抄送雇主。

(a) 和 (b) 项用也在通用条件其他地方使用的词语说明了承包商的权利。见本指南对第三条解释末尾的表以及第 8.4 和 20.1 款的解释。

10.4 Surfaces Requiring Reinstatement

CONS	P&DB	EPCT
Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.	Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.	(No EPCT Sub-Clause)

RB 48.4

Under EPCT, it is envisaged that surfaces will be reinstated before taking over. If this is not the case, details should be included in the Taking-Over Certificate.

10.4 需要复原的地面

CONS	P&DB	EPCT
除接收证书中另有说明外，单位工程或部分工程的接收证书，不应视为任何需要复原的场地或其他地面已经完成的证明。	除接收证书中另有说明外，单位工程或部分工程的接收证书，不应视为任何需要复原的场地或其他地面已经完成的证明。	(没有 EPCT 条款)

RB 48.4

根据 EPCT，设想地面将在接收前复原。如果情况不是这样，接收证书中应详细说明。

Clause 11 Defects Liability

11.1 Completion of Outstanding Work and Remedying Defects

CONS	P&DB	EPCT
In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:	In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:	In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:
(a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and	(a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and	(a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Employer, and
(b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).	(b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).	(b) execute all work required to remedy defects or damage, as may be notified by the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).
If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Employer.	If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Employer.	If a defect appears or damage occurs, the Employer shall notify the Contractor accordingly.

RB 49.2; YB 30.2 & 30.3; OB 12.1

In some other published forms of contract, the period after completion was given a name which gave an incorrect implication of the Contractor's responsibilities. The expression "Defects Notification Period" recognises the aspect which will seem administratively most significant, namely the notification of defects under this Sub-Clause. Note that the Sub-Clause refers to the Contractor's Documents, which (unlike Sections) do not form part of the Works.

Under Sub-Clause 10.1, the Contractor is entitled to a Taking-Over Certificate notwithstanding that some work may still be incomplete. Under Sub-Clause 11.1(a), the Contractor is required to complete this outstanding work within an

instructed time which must be reasonable. If no reasonable time is so instructed, this work must be completed "by the expiry date of the relevant Defects Notification Period" or (if that was impractical) as soon as practicable thereafter.

Under Sub-Clause 11.1(b), the Contractor is required to remedy defects or damage which have been notified by the Employer, or (on his behalf) by the Engineer under CONS or P&DB. Although these notices should be issued whenever a defect appears or damage occurs, as stated in the last sentence of the Sub-Clause, it is desirable for there to be a joint inspection of the Works or Section. Such inspection should be conducted a few days before the expiry of the

第 11 条 缺陷责任

11.1 完成扫尾工作和修补缺陷

CONS	P&DB	EPCT
为了使工程、承包商文件和每个单位工程在相应缺陷通知期限期满日期或其后，尽快达到合同要求(合理的损耗除外)，承包商应：	为了使工程、承包商文件和每个单位工程在相应的缺陷通知期限期满日期或其后，尽快达到合同要求(合理的损耗除外)，承包商应：	为了使工程、承包商文件和每个单位工程在相应缺陷通知期限期满日期或其后尽快达到合同要求(合理的损耗除外)，承包商应：
(a) 在工程师指示的合理时间内，完成接收证书注明日期时尚未完成的任何工作；以及	(a) 在工程师指示的合理时间内，完成接收证书注明日期时尚未完成的任何工作；以及	(a) 在雇主指示的合理时间内，完成接收证书注明日期时尚未完成的任何工作；以及
(b) 在工程或单位工程(视情况而定)的缺陷通知期限期满日期或其以前，按照雇主(或其代表)可能通知的要求，完成修补缺陷或损害所需的所有工作。	(b) 在工程或单位工程(视情况而定)的缺陷通知期限期满日期或其以前，按照雇主(或其代表)可能通知的要求，完成修补缺陷或损害所需的所有工作。	(b) 在工程或单位工程(视情况而定)的缺陷通知期限期满日期或其以前，按照雇主可能通知的要求，完成修补缺陷或损害所需要的所有工作。
如果出现缺陷或发生损害，雇主(或其代表)应相应地通知承包商。	如果出现缺陷或发生损坏，雇主(或其代表)应相应地通知承包商。	如果出现缺陷或发生损害，雇主应相应地通知承包商。

RB 49.2; YB 30.2&30.3; OB 12.1

在出版的一些其他合同格式中，为竣工后的一段期限定的名称对承包商的职责没有给出正确的含义。“缺陷通知期限”这一措辞认识到从管理上看来最重要的即根据本款的缺陷通知方面。注意本款提到承包商文件，这些文件(不像单位工程)不构成工程的组成部分。

根据第 10.1 款，承包商有权得到接收证书，尽管一些工作可能还未完成。根据第 11.1 (a) 款，要求承包商在指示的必须合理时间内完成扫尾工作。如果

没有如此指示合理时间，这一工作必须在“相应缺陷通知期限期满日期前”或(如果这样不现实)在其后尽可能快地完成。

根据第 11.1 (b) 款，要求承包商修补由雇主或根据 CONS 或 P&DB 由工程师(或代表他)通知的缺陷或损害。尽管这些通知应在出现缺陷或发生损害时发出，如本款最后一句所述的那样，但最好对工程或单位工程进行联合检验。此类检验应在缺陷通知期限期满前几天内进行，并应由各方代表以及根据

Defect Notification Period, and should be attended by representatives of the Parties, and by the Engineer under CONS or P&DB. This inspection will be followed by the formal notice under Sub-Clause 11.1(b), although the Contractor should have been aware of the notified defects or damage by reason of his representatives having been present at the inspection. The notice should describe the defects or damage, but does not need to specify how they should be remedied.

Having been notified under Sub-Clause 11.1(b), the Contractor is both obliged and entitled to carry out the remedial work, including to the right of access under

11.2 Cost of Remedying Defects

CONS	P&DB	EPCT
All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [<i>Completion of Outstanding Work and Remedying Defects</i>] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:	All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [<i>Completion of Outstanding Work and Remedying Defects</i>] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:	All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [<i>Completion of Outstanding Work and Remedying Defects</i>] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:
(a) any design for which the Contractor is responsible,	(a) the design of the Works, other than a part of the design for which the Employer is responsible (if any),	(a) the design of the Works,
(b) Plant, Materials or workmanship not being in accordance with the Contract, or	(b) Plant, Materials or workmanship not being in accordance with the Contract,	(b) Plant, Materials or workmanship not being in accordance with the Contract,
(c) failure by the Contractor to comply with any other obligation.	(c) improper operation or maintenance which was attributable to matters for which the Contractor is responsible (under Sub-Clauses 5.5 to 5.7 or otherwise), or	(c) improper operation or maintenance which was attributable to matters for which the Contractor is responsible (under Sub-Clauses 5.5 to 5.7 or otherwise), or
If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer, and Sub-Clause 13.3 [<i>Variation Procedure</i>] shall apply.	(d) failure by the Contractor to comply with any other obligation.	(d) failure by the Contractor to comply with any other obligation.
	If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer, and Sub-Clause 13.3 [<i>Variation Procedure</i>] shall apply.	If and to the extent that such work is attributable to any other cause, the Employer shall give notice to the Contractor accordingly, and Sub-Clause 13.3 [<i>Variation Procedure</i>] shall apply.

RB 49.3; YB 30.2 & 30.9; OB 12.2

CONS 或 P&DB 规定的工程师参加。此检验完成后将根据第 11.1 (b)款发出正式通知。尽管承包商由于其代表参与检验应已获知通知的缺陷或损害。通知应描述缺陷或损害, 但不必规定如何修补。

承包商在接到根据第 11.1 (b)款的 通知后, 有进行修补工作的义务和权利, 包括根据第 11.7 款的现场进入权。雇主不应自己修补缺陷或损害。除非并直

如果雇主抑制不通知缺陷或损害, 因为他宁愿自己修补, 并向承包商收回这样做的合理费用。雇主将违背第 11.1 款最后一句话。但在某些情况下雇主可能(根据适用法律)有权这样做, 如具有可论证的依据认为承包商将不能以必要的技术和细心进行这一工作。

11.2 修补缺陷的费用

CONS	P&DB	EPCT
第 11.1 款[<i>完成扫尾工作和修补缺陷</i>]的 (b) 项中提出的所有工作, 如果在归因于以下原因的范围, 其实施中的风险和费用应由承包商承担:	第 11.1 款[<i>完成扫尾工作和修补缺陷</i>]的 (b) 项中提出的所有工作, 如果在归因于以下原因的范围, 其实施中的风险和费用应由承包商承担:	第 11.1 款[<i>完成扫尾工作和修补缺陷</i>]的 (b) 项中提出的所有工作, 如果在归因于以下原因的范围, 其实施中的风险和费用应由承包商承担:
(a) 承包商负责的设计;	(a) 工程的设计, 由雇主负责(如果有)的部分设计除外;	(a) 工程的设计;
(b) 生产设备、材料或工艺不符合合同要求, 或	(b) 生产设备、材料或工艺不符合合同要求;	(b) 生产设备、材料或工艺不符合合同要求;
(c) 承包商未能遵守任何其他义务。	(c) 由承包商(根据第 5.5 款至第 5.7 款或其他规定)负责的事项产生的不当的操作或维修, 或	(c) 由承包商(根据第 5.5 至 5.7 款或其他规定)负责的事项产生的不当的操作或维修; 或
如果此类工作在归因于任何其他原因的范围, 雇主(或其代表)应迅速通知承包商, 并应适用第 13.3 款[<i>变更程序</i>]的规定。	(d) 承包商未能遵守任何其他义务。	(d) 承包商未能遵守任何其他义务。
	如果此类工作在归因于任何其他原因的范围, 雇主(或其代表)应迅速通知承包商, 并应适用第 13.3 款[<i>变更程序</i>]的规定。	如果此类工作在归因于任何其他原因的范围, 雇主(或其代表)应迅速通知承包商, 并应适用第 13.3 款[<i>变更程序</i>]的规定。

RB 49.3; YB 30.2&30.9; OB 12.2

Sub-Clause 11.7. The Employer should not remedy the defects or damage himself, unless and until he is entitled to do so under Sub-Clause 11.4.

If the Employer refrains from notifying a defect or damage, because he prefers to remedy himself and then recover the reasonable cost of so doing from the Contractor, the Employer will be in breach of the last sentence of Sub-Clause 11.1. However, the Employer may (under the applicable Laws) be entitled to do so in some circumstances, such as having demonstrable grounds for believing that the Contractor would fail to carry out the work with the necessary skill and care.