

菲迪克(FIDIC)文献译丛



中英文对照本

国际咨询工程师联合会  
中国工程咨询协会 编译

# 生产设备和设计－施工合同条件

## Conditions of Contract for Plant and Design-Build

1999年第1版

用于由承包商设计的电气和机械设备以及建筑和工程

通用条件

专用条件编写指南

投标函、合同协议书和争端裁决协议书格式

General Conditions

Guidance for the Preparation of Particular Conditions

Forms of Letter of Tender, Contract Agreement and

Dispute Adjudication Agreement



机械工业出版社  
China Machine Press

菲迪克(FIDIC)文献译丛

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Conditions of Contract  
for Plant and Design-Build

国际咨询工程师联合会 编译  
中国工程咨询协会

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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《生产设备和设计-施工合同条件》(中英文对照本)是按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定稿。

本书不是在菲迪克以往合同基础上修改,而是进行了重新编写。它继承了原有合同条件的优点,并根据多年来在实践中取得的经验以及专家、学者和相关各方的意见和建议,作出了重大的调整。

本书内容包括生产设备和设计-施工合同的通用条件,附有争端裁决协议书一般条件、专用条件、编写指南附各担保函格式以及投标函、合同协议书和争端裁决协议书格式。

本书推荐用于由电气和(或)机械生产设备供货和建筑或工程的设计与施工。这种合同的通常情况是,由承包商按照雇主要求,设计和提供生产设备和(或)其他工程;可以包括土木、机械、电气和(或)构筑物的任何组合。

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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### 图书在版编目(CIP)数据

生产设备和设计-施工合同条件/中国工程咨询协会编

译.—北京:机械工业出版社,2002.5

(菲迪克(FIDIC)文献译丛)

书名原文:Conditions of Contract for Plant and Design-Build

ISBN 7-111-10241-X

I. 生… II. 中… III. 建筑工程—工程施工—合同—基本知识 IV. TU723.1

中国版本图书馆 CIP 数据核字(2002)第 028534 号

机械工业出版社(北京市百万庄大街 22 号 邮政编码 100037)

责任编辑:何文军 责任校对:申春香

封面设计:姚毅 责任印制:付方敏

北京铭成印刷有限公司印刷·新华书店北京发行所发行

2002 年 5 月第 1 版·第 1 次印刷

890mm×1240 mm A4·16.25 印张·518 千字

00 001—10 000 册

本书定价:110.00 元(全套 360 元)

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Peter van der TOGT  
Publications manager

[译文]

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KAG20/04



**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)已有来自于全球各地 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 菲迪克)编写,于1999年出版的新合同标准格式第一版。新版《生产设备和设计-施工合同条件》继承了菲迪克以往合同条件的优点,并根据多年来在实践中取得的经验以及专家、学者和相关各方的意见和建议,作出了重大的调整。在结构、布局和措辞等方面做了重大的修改:统一了条款、定义和措辞;条款数目统一为二十条。此次出版的《生产设备和设计-施工合同条件》,不是在原有合同基础上修改,而是进行了重新编写。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年才正式出版了重新改写的《生产设备和设计-施工合同条件》。

希望此译本的出版,对我国广大从事工程咨询、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。

本书由周可荣、刘雯、万彩芸、王健翻译,何伯森、张水波校译,王川、徐礼章、唐萍审校。

FIDIC 文献编译委员会



# ACKNOWLEDGEMENTS

Fédération Internationale des Ingénieurs-Conseils (FIDIC) extends special thanks to the following members of its Update Task Group: Christopher Wade (Group Leader), SWECO-VBB, Sweden; Peter L Booen (Principal Drafter), GIBB Ltd, UK; Hermann Bayerlein, Fichtner, Germany; Christopher R Seppala (Legal Adviser), White & Case, France; and José F Speziale, IATASA, Argentina.

The preparation was carried out under the general direction of the FIDIC Contracts Committee which comprised John B Bowcock, Consulting Engineer, UK (Chairman); Michael Mortimer-Hawkins, SwedPower, Sweden; and Axel-Volkmar Jaeger, Schmidt Reuter Partner, Germany; together with K B (Tony) Norris as Special Adviser.

Drafts were reviewed by many persons and organisations, including those listed below. Their comments were duly studied by the Update Task Group and, where considered appropriate, have influenced the wording of the clauses. Mushtaq Ahmad, NESPAK, Pakistan; Peter Batty, Post Buckley International, USA; Roeland Bertrams, Clifford Chance, Netherlands; Charles G Borthwick, SwedPower, Sweden; Manfred Breege, Lahmeyer International, Germany; Pablo Bueno, TYPASA, Spain; Nael G Bunni, Consulting Engineer, Ireland; Ian Fraser, Beca Carter Hollings & Ferner, New Zealand; Roy Goode, Oxford University, UK; Dan W Graham, Bristows Cooke & Carpmael, UK; Mark Griffiths, Griffiths & Armour, UK; Geoffrey F Hawker, Consulting Engineer, UK; Hesse & Steinberger, VDMA, Germany; Poul E Hvilsted, Elsamprojekt, Denmark; Gordon L Jaynes, Whitman Breed Abbott & Morgan, UK; Tonny Jensen (Chairman of FIDIC Quality Management Committee), COWI, Denmark; Philip Loots & Associates, South Africa; Neil McCole, Merz and McLellan, UK; Tim Reynolds, Constant & Constant, UK; Matthew Needham-Laing, Victoria Russell & Paul J Taylor, Berrymans Lace Mawer, UK; David R Wightman & Gerlando Butera, Nabarro Nathanson, UK; the Association of Japanese Consulting Engineers; the Construction Industry Authority of the Philippines; European International Contractors; ORGANISME de Liaison Industries Métalliques Européennes ("ORGALIME"); the International Association of Dredging Contractors; the International Bar Association; the Asian Development Bank; and the World Bank. Acknowledgement of reviewers does not mean that such persons or organizations approve the wording of all clauses.

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 菲迪克)对其新版工作组下列成员特致感谢:瑞典 SWECO-VBB 的 Christopher Wade (组长);英国 GIBB 有限公司的 Peter L Booen (主要起草人);德国 Fichtner 的 Hermann Bayerlein;法国 White & Case 的 Christopher R Seppala (法律顾问);以及阿根廷 IATASA 的 Jose F Speziale。

本书是在 FIDIC 合同委员会全面指导下进行编写的,该委员会成员包括: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;以及作为特别顾问的 KB (Tony) Norris。

书稿曾经下列许多人员和组织审阅,他们的意见已由新版工作组充分研究,认为适宜的意见,已反映在条款措词中。这些人员和组织包括:巴基斯坦 NESPAK 的 Mushtaq Ahmad;美国 Post Buckley International 的 Peter Batty;荷兰 Clifford Chance 的 Roeland Bertrams;瑞典 SwedPower 的 Charles G Borthwick;德国 Lahmeyer International 的 Manfred Breege;西班牙 TYPESA 的 Pablo Bueno;爱尔兰的咨询工程师 Nael G Bunn;新西兰 Beca Carter Hollings & Ferner 的 Ian Fraser;英国牛津大学的 Roy Goode;英国 Bristows Cooke & Carmael 的 Dan W Graham;英国 Griffiths & Armour 的 Mark Griffiths;英国的咨询工程师 Geoffrey F Hawker;德国 VDMA 的 Hesse & Steinberger;丹麦 Elsamprojekt 的 Poul E Hvilsted;英国 Whitman Breed Abbott & Morgan 的 Gordon L Jaynes;丹麦 COWI 的 Tonny Jensen (FIDIC 质量管理委员会主席);南非的 Philip Loots & Associates;英国 Merz and McLellan 的 Neil McCole;英国 Constant & Constant 的 Tim Reynolds;英国 Berryman's Lacey Mawer 的 Matthew Needham-Laing, Victoria Russell & Paul J Taylor;英国 Nabarro Nathanson 的 David R Wightman & Gerlando Butera;日本咨询工程师协会;菲律宾建设工业局;欧洲国际承包商会;欧洲金属工业联络组织(ORGALIME);国际疏浚承包商协会;国际律师协会;亚洲开发银行;以及世界银行。对审阅人的致谢,并不表示这些人员和组织对所有条款措词的赞同。

FIDIC 对上述所有人员和组织付出的时间和精力,表示感谢。

对文件格式和内容的最终决定由 FIDIC 负责。

## FOREWORD

The Fédération Internationale des Ingénieurs-Conseils (FIDIC) published, in 1999, First Editions of four new standard forms of contract:

Conditions of Contract for Construction,

which are recommended for building or engineering works designed by the Employer or by his representative, the Engineer. Under the usual arrangements for this type of contract, the Contractor constructs the works in accordance with a design provided by the Employer. However, the works may include some elements of Contractor-designed civil, mechanical, electrical and/or construction works.

Conditions of Contract for Plant and Design-Build,

which are recommended for the provision of electrical and/or mechanical plant, and for the design and execution of building or engineering works. Under the usual arrangements for this type of contract, the Contractor designs and provides, in accordance with the Employer's requirements, plant and/or other works; which may include any combination of civil, mechanical, electrical and/or construction works.

Conditions of Contract for EPC/Turnkey Projects,

which may be suitable for the provision on a turnkey basis of a process or power plant, of a factory or similar facility, or of an infrastructure project or other type of development, where (i) a higher degree of certainty of final price and time is required, and (ii) the Contractor takes total responsibility for the design and execution of the project, with little involvement of the Employer. Under the usual arrangements for turnkey projects, the Contractor carries out all the Engineering, Procurement and Construction (EPC): providing a fully-equipped facility, ready for operation (at the "turn of the key").

Short Form of Contract,

which is recommended for building or engineering works of relatively small capital value. Depending on the type of work and the circumstances, this form may also be suitable for contracts of greater value, particularly for relatively simple or repetitive work or work of short duration. Under the usual arrangements for this type of contract, the Contractor constructs the works in accordance with a design provided by the Employer or by his representative (if any), but this form may also be suitable for a contract which includes, or wholly comprises, Contractor-designed civil, mechanical, electrical and/or construction works.

The forms are recommended for general use where tenders are invited on an international basis. Modifications may be required in some jurisdictions, particularly if the Conditions are to be used on domestic contracts. FIDIC considers the official and authentic texts to be the versions in the English language.

In the preparation of these Conditions of Contract for Plant and Design-Build, it was recognised that, while there are many sub-clauses which will be generally applicable, there are some sub-clauses which must necessarily vary to take account of the

# 前言

国际咨询工程师联合会(FIDIC 菲迪克)于1999年出版了四本新的合同标准格式第一版:

## 《施工合同条件》,

推荐用于由雇主或其代表工程师设计的建筑或工程项目。这种合同的通常情况是,由承包商按照雇主提供的设计进行施工。但该工程可以包括由承包商设计的土木、机械、电气和(或)构筑物的某些部分。

## 《生产设备和设计-施工合同条件》,

推荐用于电气和(或)机械设备供货,以及建筑或工程的设计和施工。这种合同的通常情况是,由承包商按照雇主要求,设计和提供生产设备和(或)其他工程,可以包括土木、机械、电气和(或)构筑物的任何组合。

## 《设计采购施工(EPC)/交钥匙工程合同条件》,

可适用于以交钥匙方式提供加工或动力设备、工厂或类似设施、基础设施项目或其他类型的开发项目。这种方式,(i)项目的最终价格和要求的工期具有更大程度的确定性,(ii)由承包商负责项目的设计和实施的全部职责,雇主介入很少。交钥匙工程的通常情况是,由承包商进行所有设计、采购和施工(EPC):提供一个配备完善的设施, (“转动钥匙”时)即可运行。

## 《简明合同格式》,

推荐用于投资金额较小的建筑或工程项目。根据工程的类型和具体条件,此格式也可适用于较大价值的合同,特别是相对简单、或重复性的工程或工期短的工程。这种合同的通常情况是,由承包商按照雇主或其代表(如果有)提供的设计进行工程施工,但此格式也可适用于包括或完全由承包商设计的土木、机械、电气和(或)构筑物的合同。

这些合同格式是推荐在国际招标中通用的。在某些司法管辖区,特别是用于国内合同的条件,可能需进行一些修改。菲迪克(FIDIC)认为,正式、权威性的文本应为英文版。

在编写本《生产设备和设计-施工合同条件》中感到,尽管有许多条款是普遍适用的,但有些条款必须考虑特定合同的有关情况予以必要的变动。我们认为可以用于大

circumstances relevant to the particular contract. The sub-clauses which were considered to be applicable to many (but not all) contracts have been included in the General Conditions, in order to facilitate their incorporation into each contract.

The General Conditions and the Particular Conditions will together comprise the Conditions of Contract governing the rights and obligations of the parties. It will be necessary to prepare the Particular Conditions for each individual contract, and to take account of those sub-clauses in the General Conditions which mention the Particular Conditions.

For this publication, the General Conditions were prepared on the following basis:

- (i) interim payments, in respect of the lump sum Contract Price, will be made as work proceeds, and will typically be based on instalments specified in a schedule;
- (ii) if the wording in the General Conditions necessitates further data, then (unless it is so descriptive that it would have to be detailed in the Employer's Requirements) the sub-clause makes reference to this data being contained in the Appendix to Tender, the data either being prescribed by the Employer or being inserted by the Tenderer;
- (iii) where a sub-clause in the General Conditions deals with a matter on which different contract terms are likely to be applicable for different contracts, the principles applied in writing the sub-clause were:
  - (a) users would find it more convenient if any provisions which they did not wish to apply could simply be deleted or not invoked, than if additional text had to be written (in the Particular Conditions) because the General Conditions did not cover their requirements; or
  - (b) in other cases, where the application of (a) was thought to be inappropriate, the sub-clause contains the provisions which were considered applicable to most contracts.

For example, Sub-Clause 14.2 [*Advance Payment*] is included for convenience, not because of any FIDIC policy in respect of advance payments. This Sub-Clause becomes inapplicable (even if it is not deleted) if it is disregarded by not specifying the amount of the advance. It should therefore be noted that some of the provisions contained in the General Conditions may not be appropriate for an apparently-typical contract.

Further information on these aspects, example wording for other arrangements, and other explanatory material and example wording to assist in the preparation of the Particular Conditions and the other tender documents, are included within this publication as Guidance for the Preparation of the Particular Conditions. Before incorporating any example wording, it must be checked to ensure that it is wholly suitable for the particular circumstances; if not, it must be amended.

Where example wording is amended, and in all cases where other amendments or additions are made, care must be taken to ensure that no ambiguity is created, either with the General Conditions or between the clauses in the Particular Conditions. It is

多数(但非全部)合同的条款已编入**通用条件**中,以便纳入每项合同。

**通用条件**和**专用条件**共同组成管理各方权利和义务的**合同条件**。对每个具体合同,都需要编制其**专用条件**,并要考虑**通用条件**一些条款中提到的**专用条件**的内容。

本文本**通用条件**根据以下原则编写:

- (i) 关于总额合同价格的期中付款,将随工程进展,一般根据规定的分期付款的计划表支付;
- (ii) 如果**通用条件**中的措辞需要进一步的资料(除非这些资料描述很细,必须在**雇主要求**中详细说明),这时,条款指明该资料将包括在**投标书附录**中,这些资料或由**雇主**规定,或由**投标人**填入;
- (iii) 在**通用条件**中处理某一事件的条款,可能与不同的合同对该事件采用的合同条款不同时,编写此款应用的原则是:
  - (a) 使用户感到,能够简单地删去或不引用任何他们不想采用的规定,要比因为**通用条件**中没有包括他们的要求,而必须(在**专用条件**中)编写附加条款更为方便;
  - (b) 在采用(a)项办法被认为不适宜的其他情况下,使该条款包含经考虑认为对大多数合同都能适用的规定。

例如,编入第14.2款[**预付款**]是为了方便,而不是因为菲迪克(FIDIC)关于预付款的任何政策。如果该条款由于没有做出预付款数额的规定而未被理会,则该款(即使未被删除)也将变为无用。因此,应注意到**通用条件**中包含的某些规定对明显典型的合同可能不适宜。

本文本**专用条件**编写指南中包括了有关上述问题的进一步资料、其他编写方式的范例措辞、以及帮助编写**专用条件**和其他招标文件的其他解释性材料和范例措辞。在引用任何范例措辞前,必须核对确保其完全适合特定的情况;如果不是,必须对其进行修改。

在修改范例措辞,以及所有做出其他修改或补充的情况下,必须注意确保其与**通用条件**之间,或在**专用条件**的条款间不产生歧义。重要的是,所有这些起草工

essential that all these drafting tasks, and the entire preparation of the tender documents, are entrusted to personnel with the relevant expertise, including the contractual, technical and procurement aspects.

This publication concludes with example forms for the Letter of Tender, the Appendix to Tender (providing a checklist of the sub-clauses which refer to it), the Contract Agreement, and alternatives for the Dispute Adjudication Agreement. This Dispute Adjudication Agreement provides text for the agreement between the Employer, the Contractor and the person appointed to act either as sole adjudicator or as a member of a three-person dispute adjudication board; and incorporates (by reference) the terms in the Appendix to the General Conditions.

FIDIC intends to publish a guide to the use of its Conditions of Contract for Construction, for Plant and Design-Build, and for EPC/Turnkey Projects. Another relevant FIDIC publication is "Tendering Procedure", which presents a systematic approach to the selection of tenderers and the obtaining and evaluation of tenders.

In order to clarify the sequence of Contract activities, reference may be made to the charts on the next two pages and to the Sub-Clauses listed below (some Sub-Clause numbers are also stated in the charts). The charts are illustrative and must not be taken into consideration in the interpretation of the Conditions of Contract.

1.1.3.1	&	13.7	Base Date
1.1.3.2	&	8.1	Commencement Date
1.1.6.6	&	4.2	Performance Security
1.1.4.7	&	14.3	Interim Payment Certificate
1.1.3.3	&	8.2	Time for Completion (as extended under 8.4)
1.1.3.4	&	9.1	Tests on Completion
1.1.3.5	&	10.1	Taking-Over Certificate
1.1.3.6	&	12.1	Tests after Completion (if any)
1.1.3.7	&	11.1	Defects Notification Period (as extended under 11.3)
1.1.3.8	&	11.9	Performance Certificate
1.1.4.4	&	14.13	Final Payment Certificate

作，以及整个招标文件的编写，要委托具有相关专门知识的人员，包括合同、技术和采购方面的专家进行。

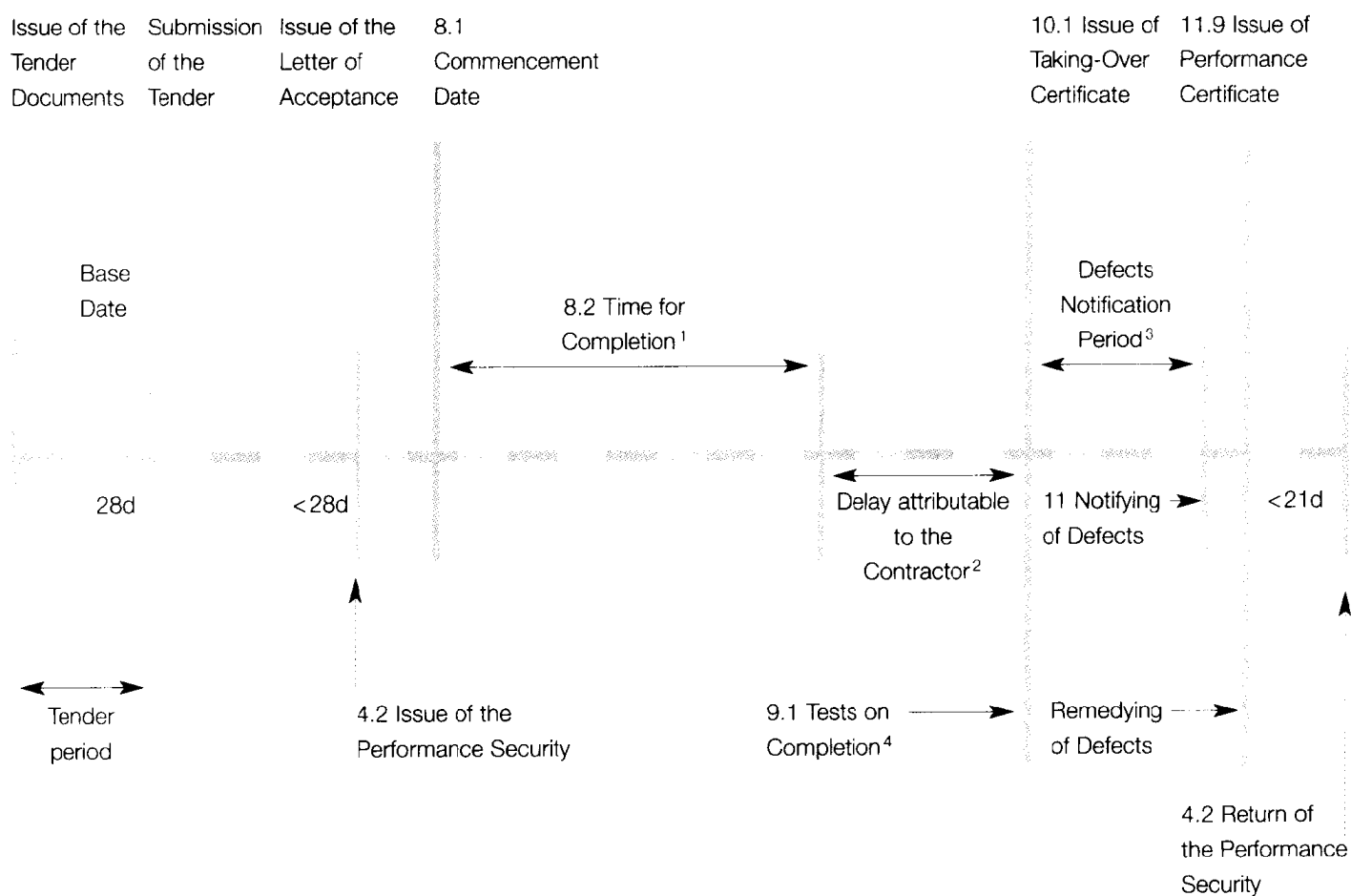
本文本的结尾部分是**投标函**、**投标书附录**(提供有关条款涉及内容的核查表)、**合同协议书**等，以及备选**争端裁决协议书**的范例格式。该**争端裁决协议书**提供了雇主、承包商和被任命为争端裁决委员会唯一裁决人或三人争端裁决委员会中的一名成员之间的协议书文本；并且(通过引用)体现了**通用条件附录**中的条款。

菲迪克(FIDIC)计划出版一本**《施工合同条件》**、**《生产设备和设计-施工合同条件》**、以及**《设计采购施工(EPC)/交钥匙工程合同条件》**的应用指南。FIDIC 出版的另一份名为**《招标程序》**的相关出版物,为选择投标人以及招标和评标提供了一套系统的方法。

为了弄清合同各项活动的顺序，可参照下面两页中的图和下列各条款(有些条款序号也在图中标出)。这些图是说明性的，不应作为**合同条件**的解释。

1.1.3.1 和 13.7	基准日期
1.1.3.2 和 8.1	开工日期
1.1.6.6 和 4.2	履约担保
1.1.4.7 和 14.3	期中付款证书
1.1.3.3 和 8.2	竣工时间(及根据第 8.4 款的延长)
1.1.3.4 和 9.1	竣工试验
1.1.3.5 和 10.1	接收证书
1.1.3.6 和 12.1	竣工后试验(如果有)
1.1.3.7 和 11.1	缺陷通知期限(及根据第 11.3 款的延长)
1.1.3.8 和 11.9	履约证书
1.1.4.4 和 14.13	最终付款证书





### Typical sequence of Principal Events during Contracts for Plant and Design-Build

1. The Time for Completion is to be stated (in the Appendix to Tender) as a number of days, to which is added any extensions of time under Sub-Clause 8.4.
2. In order to indicate the sequence of events, the above diagram is based upon the example of the Contractor failing to comply with Sub-Clause 8.2.
3. The Defects Notification Period is to be stated (in the Appendix to Tender) as a number of days, to which is added any extensions under Sub-Clause 11.3.
4. Depending on the type of Works, Test after Completion may also be required.