

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

# 菲迪克 (FIDIC) 合同指南

## The FIDIC Contracts Guide

应用菲迪克(FIDIC)1999年第1版合同条件的详细指南

施工合同条件

生产设备和设计 - 施工合同条件

设计采购施工(EPC)/交钥匙工程合同条件

机械工业出版社  
China Machine Press



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- 1. 《施工合同条件》
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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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机械工业出版社

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。

本《菲迪克(FIDIC)合同指南》是菲迪克对如何正确使用新版《菲迪克(FIDIC)合同条件》的权威解释, 它通过将 3 种主要合同条件的特点对比的形式, 描述了如何选用适合的合同格式。说明了主要条款编写时的考虑或理由, 对一些条款重点做了说明或解释、以及实施中如何把握的建议, 对如何编写合同“专用条件”、附录及附件等提供了指导意见, 还对如何编好招标文件等提出了建议。对帮助我们用好菲迪克合同范本, 做好工程项目招标、投标和合同管理将发挥重要作用。

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急迫任务之一。《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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Peter van der TOGT  
Publications manager

[译文]

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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.

**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.



# 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。

# “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

新版《菲迪克(FIDIC)合同指南》是由国际咨询工程师联合会(FIDIC 即菲迪克)适应其新出版的三本合同条件,于2002年编写的权威性应用指南。菲迪克(FIDIC)三本新版合同条件,即《施工合同条件》、《生产设备和设计-施工合同条件》和《设计采购施工(EPC)/交钥匙工程合同条件》,是认真吸取过去经验,加入新的理念,适应各类工程和各种承包管理方式,重新编写的、相互配合的一整套合同格式。合同通用条件统一为固定的20条,专用条件几本合同各自适应不同的承包方式。应用时可以灵活选择“拼装”。这为各类工程普遍采用国际经验创造了重要条件。

为了帮助有关人员学习应用这套新版合同条件,《菲迪克(FIDIC)合同指南》对三种合同条件的特点对比、编写中的考虑或理由、以及一些条款的解释做了说明,对如何选用适合合同格式、实施中如何把握,如何编写合同专用条件、及附件等提供了指导意见。对学习用好国际工程承包经验具有重要意义。

希望此译本的出版,对我国广大有关单位和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。

本书由唐萍、张瑞杰、张洁翻译,唐萍校译,王川、徐礼章审订。

中国工程咨询协会 FIDIC 文献编译委员会

## Acknowledgements

The Fédération Internationale des Ingénieurs-Conseils (FIDIC) extends special thanks to its Contracts Committee: Michael Mortimer-Hawkins (Chairman), Consulting Engineer, UK; Axel-Volkmar Jaeger, Schmidt Reuter Partner, Germany; Christopher Wade, SWECO-VBB, Sweden, Peter L Booen (Principal Drafter), GIBB Ltd, UK; with Special Advisers (and former Chairman of the Contracts Committee), John B Bowcock, Consulting Engineer, UK, and K B (Tony) Norris, Consulting Engineer, UK, and Legal Adviser Christopher R Seppala, White & Case, France.

The Contracts Committee, and FIDIC, would like to especially acknowledge the extraordinary effort of Peter L Booen, the Principal Drafter of the Guide, as well as being the Principal Drafter of the 1995 Conditions of Contract for Design-Build and Turnkey (informally titled "The Orange Book"), the "Orange Book Guide", and the three "major New Books" of 1999, Conditions of Contract for Construction, Conditions of Contract for Plant and Design-Build and Conditions of Contract for EPC/Turnkey Projects. The prodigious effort offered by Peter Booen to FIDIC, and to the Consulting Engineering Industry, by these principal draftsman tasks, is impossible to evaluate, but is extremely high. Peter shares, with his colleagues on the Task Groups and Contracts Committee, the gratitude of FIDIC, for these Task Group efforts. Members of the above Contracts Committee and Advisers, however, wish to acknowledge the nearly "single handed" effort of Peter Booen in drafting this FIDIC Contracts Guide, which was reviewed and commented upon by them all.

## About the Principal Drafter

Peter L Booen FICE FCI Arb is a civil engineer who started his career with a contractor (1965-72) before joining Sir Alexander Gibb & Partners (later GIBB Ltd) consulting engineers, UK. He has written and administered many engineering and construction contracts, both nationally and internationally, including those involving financial institutions. He has acted as adjudicator, conciliator, expert witness, and on dispute boards. He has been actively involved in FIDIC since 1993, as principal drafter of the Orange Book and its Guide, and the three major 1999 Books (Construction, Plant and Design-Build and EPC/Turnkey). He is a member of FIDIC's Contracts Committee and Chair of FIDIC's Assessment Panel for Adjudicators.

# 致谢

国际咨询工程师联合会(FIDIC)向 FIDIC 合同委员会的以下成员特致谢意:英国咨询工程师 Michael Mortimer-Hawkins (主席)、德国 Schmidt Reuter Partner 公司的 Axel-Volkmar Jaeger、瑞典 SWECO-VBB 公司的 Christopher Wade、英国 GIBB 有限公司的 Peter L Booen (主要起草人);特别顾问,英国咨询工程师 John B Bowcock (合同委员会前主席)和英国咨询工程师 K B (Tony) Norris 以及法律顾问,法国 White & Case 公司的 Christopher R Seppala。

合同委员会和 FIDIC 还要向 Peter L Booen 先生——本指南的主要起草人,对他做出的特殊努力特致谢意。他还是 1995 年《设计-施工和交钥匙合同条件》(通称《橙皮书》)、《橙皮书指南》以及 1999 年三本“主要的新版合同条件”——《施工合同条件》、《生产设备和设计-施工合同条件》和《设计采购施工(EPC)/交钥匙工程合同条件》的主要起草人。作为上述合同的主要起草人, Peter Booen 先生通过这些主要起草人的工作,对 FIDIC 和工程咨询业做出的巨大贡献是非常崇高的,无法估量的。Peter 与各工作组和合同委员会的同事们分享 FIDIC 对各工作组所做的努力的感谢。但上述合同委员会成员和顾问们都希望感谢 Peter Booen 先生在起草并经他们所有人审查和评论这本 FIDIC 合同指南中几乎是“单枪匹马”的努力。

## 关于主要起草人

Peter L Booen, FICE FCARB (英国土木工程学会会员、特许仲裁员学会会员)是一名土木工程师。他的职业生涯从承包商开始(1965-1972),然后加入了英国 Sir Alexander Gibb & Partners 工程咨询公司(后名为 GIBB 有限公司)。他编写并管理过许多国内和国际的工程和施工合同,包括金融机构参与的合作。他曾担任裁决员、和解员、专家证人和争端委员会成员。自 1993 年以来,他作为橙皮书及其指南、三本 1999 年版的主要合同(施工、生产设备和设计-施工和设计采购施工(EPC)/交钥匙)的主要起草人,积极参与了 FIDIC 的工作,他还是 FIDIC 合同委员会委员和 FIDIC 裁决员评价委员会主席。

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## Foreword and Abbreviations

In 1999, Fédération Internationale des Ingénieurs-Conseils ("FIDIC") published the following four forms of contract, the first three of which are covered by this Guide and referred to as "CONS", "P&DB" and "EPCT":

**"CONS": 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.

**"P&DB": 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.

**"EPCT": Conditions of Contract for EPC/Turnkey Projects,**

which are recommended for the provision on a turnkey basis of a process or power plant, and which may also be used where one entity takes total responsibility for the design and execution of a privately financed infrastructure project which involves little or no work underground. Under the usual arrangements for this type of contract, the entity 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 relatively simple or repetitive work, or for work of short duration or of small capital value. **The Short Form of Contract is not covered by this Guide.**

In this Guide to the use of CONS, P&DB and EPCT, the word "Books" (with capital letter) is used when referring to the three publications: CONS, P&DB and EPCT. These Books were initially published as Test Editions in 1998, and the many reactions to them were reviewed before the First Editions were published in 1999.

These three Books were prepared by FIDIC's Update Task Group comprising: 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. These publications were prepared under the general direction of the Contracts Committee, which then comprised John B. Bowcock, Consulting Engineer, UK; Michael Mortimer-Hawkins, SwedPower, Sweden; and Axel-Volkmar Jaeger, Schmidt Reuter Partner, Germany; together with K. B. (Tony) Norris as Special Adviser.

# 前言与缩写

国际咨询工程师联合会(FIDIC 菲迪克)于 1999 年出版了以下 4 本合同格式, 本指南覆盖了前三本合同, 并简称为“CONS”, “P&DB”和“EPCT”:

## “CONS”:《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工程施工。但该工程可以包含由承包商设计的土木、机械、电气和(或)构筑物的某些部分。

## “P&DB”:《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。

## “EPCT”:《设计采购施工(EPC)/交钥匙工程合同条件》

推荐用于以交钥匙方式提供加工或动力工厂; 也可用于由一个实体承担全部设计和实施职责的, 涉及很少或没有地下工程的私人融资的基础设施项目。这种合同的通常情况是, 由该实体进行全部设计、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》

推荐用于较简单或重复性的、或工期较短的、或资本金额较小的工程项目。本指南不包括简明合同格式。

在本 CONS、P&DB 和 EPCT 应用指南中, “Books”(首字母大写)一词是指 CONS, P&DB 和 EPCT 这三本出版物。这些书曾于 1998 年作为试用版发行, 经审核很多反馈意见后 1999 年出版了第 1 版。

这三本书由菲迪克(FIDIC)新版工作组以下成员编写: 瑞典 SWECO - VBB 公司的 Christopher Wade (组长), 英国 GIBB 有限公司的 Peter L Booen (主要起草人), 德国 Fichtner 公司的 Hermann Bayerlein; 法国 White & Case 公司的 Christopher R Seppala (法律顾问), 及阿根廷 IATASA 公司的 Jose F Speziale。这些出版物的编写是在合同委员会指导下进行的, 该委员会当时由英国咨询工程师 John B Bowcock、瑞典 SwedPower 公司的 Michael Mortimer-Hawkins、德国 Schmidt Reuter Partner 公司的 Axel-Volkmar Jaeger, 并以 K B (Tony) Norris 为特别顾问组成。

This Guide was written by Peter L. Booen and reviewed by the Contracts Committee which now comprises Michael Mortimer-Hawkins (Chairman), Christopher Wade, Axel-Volkmar Jaeger and Peter L. Booen; together with John B. Bowcock as Special Adviser and Christopher R. Seppala as Legal Adviser. The commentary on Clause 18 was also reviewed by Mark Griffiths, Griffiths & Armour, UK.

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

Each of the three Books is in three parts:

- General Conditions, the part which is intended to be incorporated (by reference) into each contract, and whose Sub-Clauses are often referred to in this Guide without the use of the word "Sub-Clause" (for example: "CONS 1.1");
- Guidance for the Preparation of the Particular Conditions, the part which is referred to in this Guide as "**GPPC**", which commences by proposing suitable wording to incorporate the appropriate General Conditions into a contract, and which concludes with annexed example forms of securities; and
- Forms of Letter of Tender, Contract Agreement and Dispute Adjudication Agreement, the part which is referred to in this Guide as "**the Example Form(s)**".

In this Guide, the texts in the Books are reproduced in a three-column layout. The texts should be identical to the corresponding texts in the Books, but the reader should refer to the Books in order to determine the necessary authentic wording in case of any discrepancy.

For the convenience of those who are familiar with the General Conditions of Contract contained in FIDIC's previous publications, the reference numbers of their sub-clauses which cover similar subject-matter are included within an insert box after these three-column texts reproduced from the Books, the sub-clause reference numbers being related to:

- "**RB**": Conditions of Contract for Works of Civil Engineering Construction 4th edition 1987 amended 1992 (which was commonly referred to as the Red Book)
- "**YB**": Conditions of Contract for Electrical and Mechanical Works 3rd edition 1987 amended 1988 (which was commonly referred to as the Yellow Book)
- "**OB**": Conditions of Contract for Design-Build and Turnkey 1st edition 1995 (which was commonly referred to as the Orange Book).

In each Contract, the Conditions of Contract governing the rights and obligations of the parties will comprise the appropriate General Conditions together with Particular Conditions. It will be necessary to prepare the Particular Conditions for each individual contract, taking account of the comments in this Guide and the appropriate GPPC. It is 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.





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本指南由 Peter L. Booen 编写，合同委员会成员现包括：Michael Mortimer-Hawkins（主席）、Christopher Wade、Axel-Volkmar Jaeger、和 Peter L. Booen，还有特别顾问 John B. Bowcock 和法律顾问 Christopher R. Seppala。对第 18 条的解释是由英国 Griffiths & Armour 公司的 Mark Griffiths 审阅的。

菲迪克(FIDIC)对所有上述人员和组织付出的时间和精力表示感谢。

三本书的每本都分成三部分：

- **通用条件**，本部分是拟(通过引用)纳入每个合同的，在本指南通常提到通用条件条款时，不使用某“款”一词(例如：第 1.1 款写成“CONS 1.1”)；
- **专用条件编写指南**，本部分在本指南中称为“GPPC”。从提出将通用条件纳入合同的适当措辞开始，以所附各种担保范例格式结束；
- **投标函、合同协议书和争端裁决协议书格式**，本部分在本指南中称为“范例格式”。

在本指南中，引用三本书原文时，分列为三栏的格式。引文应与各书的相应原文完全相同，但读者应参照各书原文，以便有出入时确定必要的正确措辞。

为了使熟悉菲迪克(FIDIC)先前出版的**合同通用条件**的人对照方便，题目相近条款的参考编号列在三栏引文下面的方框中，这些条款参考编号标明以下书名缩写：

- “RB”：《**土木工程施工合同条件**》1987 年第四版 1992 年的修订本(通称红皮书，Red Book)
- “YB”：《**电气与机械工程合同条件**》1987 年第三版 1988 年的修订本(通称黄皮书，Yellow Book)
- “OB”：《**设计-建造与交钥匙工程合同条件**》1995 年第一版(通称橙皮书，Orange Book)

在每本合同中，约束双方权利和义务的合同条件包括适当的通用条件和专用条件。为每个单独合同编制专用条件时，要考虑本指南中的意见和适当的 GPPC(专用条件编写指南)。所有这些起草工作和招标文件的编写，有必要委托给具有包括合同、技术和采购方面专门知识的人员。