

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

施工合同条件

Conditions of Contract for Construction

1999年第1版

用于由雇主设计的建筑和工程

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
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菲迪克(FIDIC)文献译丛

施工合同条件

Conditions of Contract
for Construction

国际咨询工程师联合会 编译
中国工程咨询协会

朱锦林 翻译 徐礼章 校译
王 川 徐礼章 唐 萍 审订

(1999年第1版)

(中英文对照本)

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机械工业出版社

本《施工合同条件》(中文版)是对照国际工程咨询工程师联合会(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《施工合同条件》1999 英文版不是在菲迪克以往合同版本基础上修改,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。

本书内容包括施工合同的通用条件和专用条件,附有争端裁决协议书一般条件、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。

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的人员。

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I herewith authorize CNAEC to translate FIDIC' s publications (but not the publications as edited by other organizations) into Chinese and publish them.

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Peter van der TOGT
Publications manager

[译文]

在此, 我授权中国工程咨询协会把 FIDIC 出版物译成中文并出版(但是, 不包括其他组织编写的出版物)。

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出版经理: Peter van der TOGT

1/24/20/05



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

FIDIC 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.

FIDIC 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.

FIDIC 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 即菲迪克)编写,于1999年出版的新合同标准格式第1版。新版《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《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《施工合同条件》。

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

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

本书由朱锦林翻译,徐礼章校译,王川、徐礼章、唐萍审校。

中国工程咨询协会 FIDIC 文献编译委员会

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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. Ihab Abu-Zahra, CRC – Hassan Dorra, Egypt; Mushtaq Ahmad, NESPAK, Pakistan; Peter Batty, Post Buckley International, USA; Roeland Bertrams, Clifford Chance, Netherlands; Bosen He, Tianjin University, China; Manfred Breege, Lahmeyer International, Germany; Pablo Bueno, TYPASA, Spain; Nael G Bunni, Consulting Engineer, Ireland; Peter H J Chapman, Engineer & Barrister, UK; 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; David S Khalef, Jordan; Philip Loots & Associates, South Africa; Neil McCole, Merz and McLellan, UK; Matthew Needham-Laing, Victoria Russell & Paul J Taylor, Berryman's Lace Mawer, UK; Brian W Totterdill, Consulting Engineer, 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 of 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.

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国际咨询工程师联合会(FIDIC)向其新版工作组的以下成员特致谢意：瑞典 SWE-CO-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。

本书是在 FIDIC 合同委员会指导下编写的，该委员会成员包括：英国咨询工程师 John B Bowcock (主席)、瑞典 SwedPower 公司的 Michael Mortimer - Hawkins、德国 Schmidt Reuter Partner 公司的 Axel - Volkmar Jaeger；还有特别顾问 K B (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辞中。这些人员和组织包括：埃及 CRC - Hassan Dorra 公司的 Ihab Abu - Zahra、巴基斯坦 NESPAK 公司的 Mushtaq Ahmad、美国 Post Buckley International 公司的 Peter Batty、荷兰 Clifford Chance 公司的 Roeland Bertrams、中国天津大学的何伯森、德国 Lahmeyer International 公司的 Manfred Breege、西班牙 TYPISA 公司的 Pablo Bueno、爱尔兰咨询工程师 Nael G Bunni、英国 Engineer & Barrister 公司的 Peter H J Chapman、新西兰 Beca Carter Hollings & Ferner 公司的 Ian Fraser、英国牛津大学的 Roy Goode、英国 Bristows Cooke & Carpmael 公司的 Dan W Graham、英国 Griffiths & Armour 公司的 Mark Griffiths、英国咨询工程师 Geoffrey F Hawker、德国 VDMA 的 Hesse & Steinberger、丹麦 Elsamprojekt 公司的 Poul E Hvilsted、英国 Whitman Breed Abbott & Morgan 公司的 Gordon L Jaynes、丹麦 COWI 公司的 Tony Jensen (FIDIC 质量管理委员会主席)、约旦的 David S Khalef、南非的 Philip Loots & Associates、英国 Merz and McLellan 公司的 Neil McCole、英国 Berrymans Lace Mawer 的 Victoria Russell & Paul J Taylor 公司的 Matthew Needham - Laing、英国咨询工程师 Brian W Totterdill、英国 Nabarro Nathanson 公司的 David R Wightman 和 Gerlando Butera、日本咨询工程师协会、菲律宾建设工业局、欧洲国际承包商组织、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。对审稿人的致谢，并不表示审稿人和审稿组织对所有条款措辞的赞同。

FIDIC 对所有上述人员和组织付出的时间和精力表示感谢。

本文件格式和内容的最终确定由 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 Construction, 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 circumstances

前言

国际咨询工程师联合会(FIDIC 菲迪克)于1999年出版了4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。

《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。

《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工厂或类似设施的加工或动力设备、基础设施项目或其他类型开发项目,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)由承包商承担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》,

推荐用于资本金额较小的建筑或工程项目。根据工程的类型和具体情况,这种格式也可用于较大资本金额的合同,特别是适用于简单或重复性的工程或工期较短的工程。这种合同的通常情况是,由承包商按照雇主或其代表(如果有)提供的设计进行工程施工,但这种格式也可适用于包括或全部是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。在某些司法管辖范围,特别是用于国内合同的条件,可能需要做些修改。菲迪克(FIDIC)认为,正式的、权威性的文本应为英文版。

在编写本《施工合同条件》中感到,虽然有许多条款可以通用,但有些条款必须考虑特定合同的有关情况做出必要的改变。我们认为可以用于多数(但非全部)合同的

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 and final payments will be determined by measurement, applying the rates and prices in a Bill of Quantities;
- (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 Specification) 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 essential that all these drafting tasks, and the entire preparation of the tender

条款已包括进通用条件中，以便纳入每项合同。

通用条件和专用条件共同组成管理合同各方权利和义务的合同条件。对每个具体的合同都需要编制其专用条件，要考虑那些提到专用条件的通用条件条款。

本文本中通用条件根据以下原则编写：

- (i) 期中付款和最终付款的金额，将按工程量测量，采用工程量表中的费率和价格进行计算。
- (ii) 如果通用条件中的措辞需要进一步的资料(除非这些资料具有过多描述，需在规范中详加说明)，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) 当通用条件中处理某一事项的条款，在不同的合同中对该事项可能采用不同的合同条款时，编写此类条款采用的原则是：
 - (a) 使用户感到能够简单地删除或不动用任何他们不想采用的规定，要比因为通用条件没有包括他们的要求，而必须(在专用条件中)编写附加条款要方便得多；或
 - (b) 在采用(a)项办法被认为不适宜的情况下，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，列入第 14.2 款 [预付款] 是为了方便，而不是因为菲迪克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(即使没有被删除)也将变为无用。因此应注意到通用条件中包含的一些规定对明显典型的合同可能不适宜。

这些方面的进一步资料、其他规定的范例措辞，以及帮助编写专用条件和其他招标文件的其他说明性材料和范例措辞，都包括在本文本专用条件编写指南中。在引用任何范例措辞前，必须认真核对，确保其完全适合特定的情况，否则必须进行修改。

当对范例措辞进行修改，以及所有其他修改或补充的情况下，必须注意确保与其通用条件之间，或在专用条件各条款间避免产生歧义。重要的是，所有这些起草工作，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、

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 check-list 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
1.1.3.7	&	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

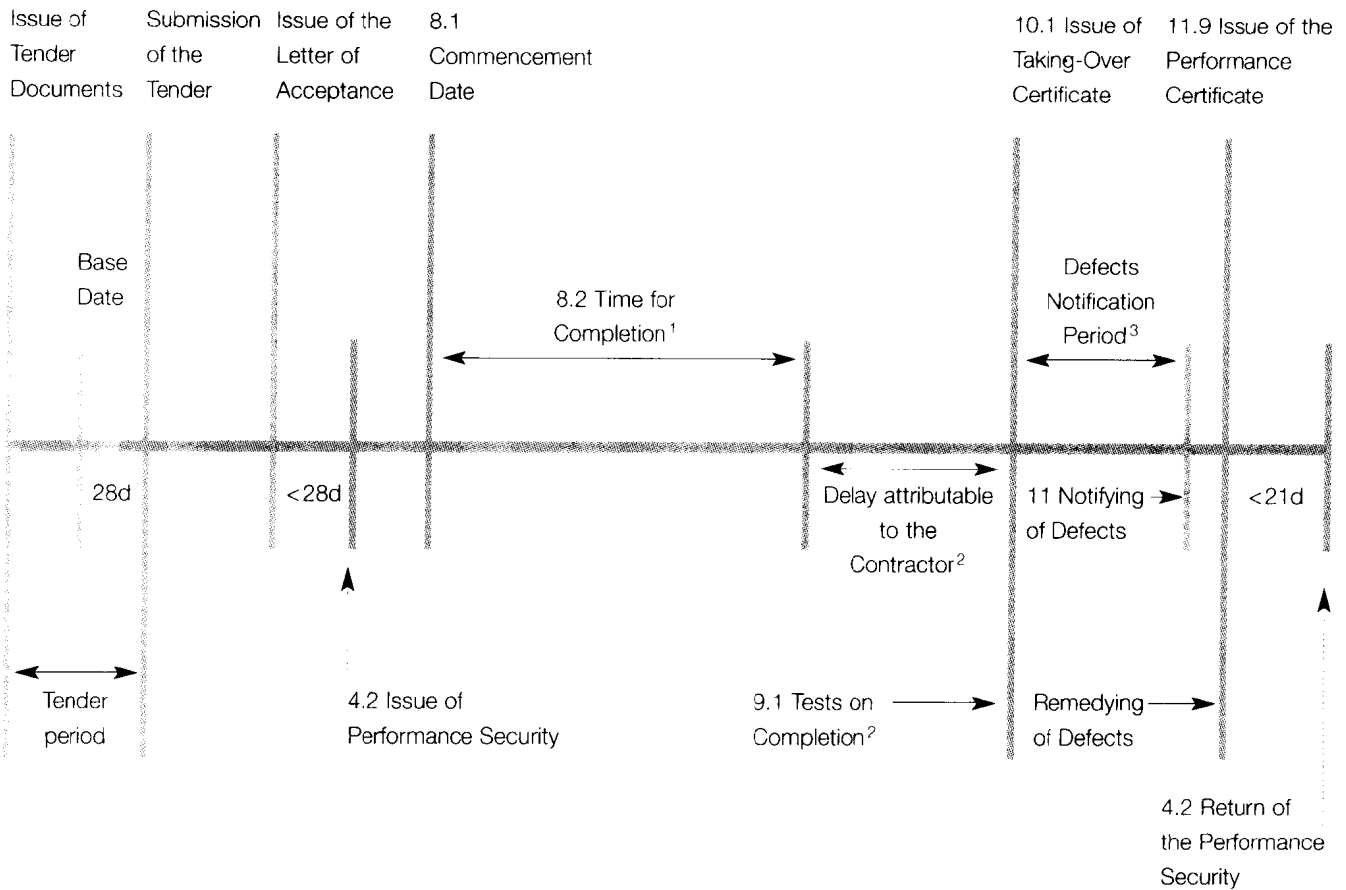
技术和采购方面的专家进行。

本文本最后附有**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**和**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**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;(通过引用)体现了**通用条件附录**的条款。

菲迪克(FIDIC)准备出版一本**《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。另一个有关的菲迪克(FIDIC)出版物是**《招标程序》**,为选择投标人和招标、评标提供了一套系统的办法。

为了澄清合同活动的顺序,可参考以下两页的**图**和下列各个**条款**(有些**条款**序号也在图中标出)。这些图只是说明性的,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
1.1.3.7 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 Construction

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