



Fédération Internationale des Ingénieurs-Conseils
International Federation of Consulting Engineers
Internationale Vereinigung Beratender Ingenieure
Federación Internacional de Ingenieros Consultores

The FIDIC Contracts Guide

SUPPLEMENT

WITH DETAILED GUIDANCE ON USING THE FIRST EDITIONS OF FIDIC'S

CONDITIONS OF CONTRACT FOR CONSTRUCTION

MULTILATERAL DEVELOPMENT BANK HARMONISED EDITION

FOR



ISBN 2 - 88432 - 045 - 8

MDB HARMONISED EDITION 2005

The FIDIC Contracts Guide

SUPPLEMENT

CONDITIONS OF CONTRACT FOR CONSTRUCTION MULTILATERAL DEVELOPMENT BANK HARMONISED EDITION

First released May 2005
Amended March 2006

2006

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.

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



Contents

INTRODUCTION

Introduction to the Supplement	1.1
Introduction to the Conditions of Contract for Construction, MDB Harmonised Edition	1.3
Summary of the License Agreement	1.5
Foreword	1.7
Notes on the Preparation of Conditions of Contract	1.10
Notes on the Preparation of Tender Documentation	1.12

GENERAL CONDITIONS: Changes

Changes to the Construction Contract 1st Edition 1999	2.1
Notes to the MDB Harmonised General Conditions	2.22
Words and Phrases replaced in the General Conditions	2.29

GENERAL CONDITIONS: Comparison

Clauses	3.1
Index of Sub-Clauses	3.2
Clause 1 Defined Words	3.8
Clauses 1 - 20 Comparison	3.10

PARTICULAR CONDITIONS

Notes on the Preparation of Particular Conditions	4.1
---	-----

The FIDIC Contracts Guide

SUPPLEMENT

Conditions of Contract for Construction Multilateral Development Bank Harmonised Edition

First released May 2005
Amended March 2006

2006

INTRODUCTION

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.

Introduction to the Supplement

The use of standard conditions of contract for all civil Works ensures comprehensiveness of coverage, an improved balance of rights or obligations between Employer and Contractor; general acceptability of their provisions, and savings in time and cost for bid preparation and review, leading to more economic prices.

The International Bank for Reconstruction and Development (IBRD) and other Multilateral Development Banks (MDBs) started releasing in May 2005 Standard Bidding Documents for the procurement of works that conformed, “to the extent possible without contravening their procurement guidelines”, to the model provided by the Master Procurement Document for Procurement of Works & User’s Guide harmonised among the various MDBs and approved by the Heads of Procurement of the MDBs and International Financial Institutions (IFIs) in October 2004. The Master Bidding Documents reflect “best practices” by these institutions.

These Standard Bidding Documents for the procurement of works are to be used for the procurement of admeasurement (unit price or rate) type of works through International Competitive Bidding (ICB) in projects that are financed in whole or in part by an MDB. These bidding documents are not suitable for lump sum contracts without substantial changes to the method of payment and price adjustment, and to the Bill of Quantities, Schedules and so forth.

The MDB harmonised Master Procurement Document for Procurement of Works & User’s Guide incorporates General Conditions of a harmonised edition of contract conditions which text has been agreed by the International Federation of Consulting Engineers (FIDIC) and various MDBs for its inclusion in the Master Procurement Documents for Procurement of Works & User’s Guide.

The harmonisation of the General Conditions has made unnecessary the great number of deviations to the General Conditions of Contract (FIDIC’s “Conditions of Contract for Construction”), introduced in, for example, the World Bank’s SBD for the procurement of works through Particular Conditions of Contract to account for all non-applicable general conditions.

Given that the harmonised General Conditions are based extensively on the “Conditions of Contract for Construction”, 1st Edition, published by FIDIC in 1999, and FIDIC being the sole copyright owner of the publication, the MDBs subscribed to a license agreement with FIDIC that authorizes the use of the harmonised edition of such conditions of contract by the MDBs when preparing bidding documents in accordance with their various SBD for the procurement of works.

By virtue of a license agreement subscribed between Participating Banks and FIDIC, a Bank’s Borrowers and their implementing agencies are authorized to reproduce the MDB Harmonised Edition of FIDIC’s General Conditions of Contract for the exclusive purpose of preparing bidding documents. Therefore, Borrowers and their implementing agencies must abstain from making any use of the Harmonised Edition of FIDIC’s General Conditions of Contract, distinct from the use indicated in the license agreement with the Banks.

The harmonised Master Procurement Document for Procurement of Works & User’s Guide also contains Particular Conditions, now consisting of two Parts: Part A, comprising the

The FIDIC Contracts Guide

SUPPLEMENT

Conditions of Contract for Construction Multilateral Development Bank Harmonised Edition

First released May 2005
Amended March 2006

2006

GENERAL CONDITIONS: Changes

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.

Changes to the Construction Contract General Conditions

This table summaries the changes that were made to the General Conditions ("GC") of FIDIC Conditions of Contract for Construction, 1st Edition 1999 ("CONS"), in the General Conditions of the Participating Banks' Multilateral Development Bank ("MDB") Harmonised Edition of the contract ("CONS MDB") as incorporated in the MDB Master Procurement Documents and released in the World Bank Standard Bidding Document "Procurement of Works & Users Guide", May 2005 ("WB WORKS SBD 2005") and subsequently amended in March 2006 ("WB WORKS SBD 2006").

Many of the modifications incorporated in CONS MDB GC were in regular use by the MDBs, as for instance, Specific Provisions for incorporation into the Conditions of Particular Application ("COPA") to accompany the GC of the FIDIC Conditions of Contract for Works of Civil Engineering Construction, 4th Edition 1997 ("Red Book"), that were adopted for the World Bank Standard Bidding Document "Procurement of Works", May 2000, Revised March 2003, March 2003, May 2004 ("WB WORKS SBD 2004") which was replaced by WB WORKS SBD 2006. Other modifications incorporated in MDB CONS GC are based on example wording given in the CONS Guidance for the Preparation of Particular Conditions ("PC Guidance").

Sub-Clause	Change to CONS
------------	----------------

General Conditions

1.1 Definitions

1.1.	Add	“, Parts A and B,”
1.1.1.2	Delete	“(if any)”
1.1.1.4	Add Becomes	“letter of bid” “Letter of Tender” means the document entitled letter of tender or letter of bid,”
1.1.1.9	Replace Replace Replace Replace Becomes	“Appendix to Tender” with “Contract Data” “completed pages” with “pages completed by the Employer” “appendix to tender which are appended to and form part of the Letter of Tender” with “contract data which constitute Part A of the Particular Conditions” “and” with “,” to give: “Bill of Quantities”, “Daywork Schedule” and “Schedule of Payment Currencies” mean the documents so named (if any) which are comprised in the Schedules.
1.1.1.10	Add Renummer Becomes	“Schedule of Payment Currencies” 1.1.1.10 as 1.1.1.9 Contract Data" means the pages completed by the Employer entitled contract data which constitute Part A of the Particular Conditions.
1.1.2.2	Replace	“Appendix to Tender” with “Contract Data”
1.1.2.9	Delete Replace Add Becomes	“Adjudication” from “Dispute Adjudication Board” “DAB” with “DB” “on the composition” to 20.3 sub-clause title “DB” means the person or three persons appointed under Sub-Clause 20.2 [Appointment of the Dispute Board] or Sub-Clause 20.3 [Failure to Agree on the Composition of the Dispute Board].
1.1.2.11	Add	“Bank” means the financing institution (if any) named in the Contract Data.”



FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.

The FIDIC Contracts Guide

SUPPLEMENT

Conditions of Contract for Construction Multilateral Development Bank Harmonised Edition

First released May 2005

Amended March 2006

2006

GENERAL CONDITIONS: Changes

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.

Clauses

Clause 1	General Provisions
Clause 2	The Employer
Clause 3	The Engineer
Clause 4	The Contractor
Clause 5	Nominated Subcontractors
Clause 6	Staff and Labour
Clause 7	Plant, Materials and Workmanship
Clause 8	Commencement, Delays and Suspension
Clause 9	Tests on Completion
Clause 10	Employer's Taking Over
Clause 11	Defects Liability
Clause 12	Measurement and Evaluation
Clause 13	Variations and Adjustments
Clause 14	Contract Price and Payment
Clause 15	Termination by Employer
Clause 16	Suspension and Termination by Contractor
Clause 17	Risk and Responsibility
Clause 18	Insurance
Clause 19	Force Majeure
Clause 20	Claims, Disputes and Arbitration
Appendix	General Conditions of Dispute Board Agreement
Annex	Procedural Rules

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.



Clause-by-Clause Comparison

Clause 1 General Provisions

1.1 General Provisions

CONS

CONS MDB

In the Conditions of Contract (“these Conditions”), which include Particular Conditions and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

In the Conditions of Contract (“these Conditions”), which include Particular Conditions, Parts A and B, and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

1.1.1 The Contract

CONS

CONS MDB

1.1.1.1. “Contract” means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

1.1.1.1 “Contract” means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these Conditions, the Specification, the Drawings, the Schedules, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.

1.1.1.2 “Contract Agreement” means the contract agreement (if any) referred to in Sub-Clause 1.6 [Contract Agreement].

1.1.1.2 “Contract Agreement” means the contract agreement referred to in Sub-Clause 1.6 [Contract Agreement].

1.1.1.3 “Letter of Acceptance” means the letter of formal acceptance, signed by the Employer, of the Letter of Tender, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such letter of acceptance, the expression “Letter of Acceptance” means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.

1.1.1.3 “Letter of Acceptance” means the letter of formal acceptance, signed by the Employer, of the Letter of Tender, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such letter of acceptance, the expression “Letter of Acceptance” means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.

1.1.1.4 “Letter of Tender” means the document entitled letter of tender, which was completed by the Contractor and includes the signed offer to the Employer for the Works.

1.1.1.4 “Letter of Tender” means the document entitled letter of tender or letter of bid, which was completed by the Contractor and includes the signed offer to the Employer for the Works.

1.1.1.5 “Specification” means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

1.1.1.5 “Specification” means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

1.1.1.6 “Drawings” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.

1.1.1.6 “Drawings” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.

1.1.1.7 “Schedules” means the document(s) entitled

1.1.1.7 “Schedules” means the document(s) entitled

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT



UTE.

The FIDIC Contracts Guide

SUPPLEMENT

Conditions of Contract for Construction Multilateral Development Bank Harmonised Edition

First released May 2005
Amended March 2006

2006

PARTICULAR CONDITIONS

FOR EXCLUSIVE USE BY AJCE. FOR INTERNAL USE ONLY DO NOT DISTRIBUTE.



© FIDIC 2006

Notes on the Preparation of Particular Conditions

Introduction

As mentioned earlier in this Supplement, the purpose of producing the Harmonised Edition of Conditions of Contract for Construction which have been agreed between FIDIC and the various multilateral development banks (MDBs) for inclusion in the Master Procurement Documents for Procurement of Works & User's Guide, was to avoid the need for Borrowers to include a number of mandatory provisions in the Particular Conditions in order to meet the requirements of the MDB concerned. All such provisions, which had to be included as Particular Conditions when using the original version of the FIDIC Conditions of Contract for Construction 1st Edition 1999 have now been incorporated in the General Conditions of the Harmonised Edition.

The MDBs, however, recognise that there are certain provisions and conditions which are particular to each individual project, simply due to the fact that no two projects are the same, and also that there may be other provisions which need to be added or changed to make the overall Conditions appropriate and suitable for the project in question.

For this reason, the harmonised edition includes Particular Conditions.

Particular Conditions

In the MDB Harmonised Edition of the Construction Contract, the Particular Conditions are divided in two Parts - Part A (Contract Data) and Part B (Special Provisions).

In a normal situation, the General Conditions and the Particular Conditions - Part A will give a perfectly satisfactory and legally sound basis for entering the Contract.

The Contract Data is provided by the Employer and replaces the Appendix to Tender in the Construction Contract 1st Edition 1999, and the Special Provisions are those provisions which change or are additional to provisions to be found in the General Conditions. This Part is equivalent to the Particular Conditions found in the 1999 Edition.

Special Provisions

In the published version of the Master Procurement Documents for Procurement of Works & User's Guide (March 2006) - see also Section 2: Notes to the MDB Harmonised General Conditions, there are two provisions given in Part B as Special Provisions. The first concerns Sub-Clause 14.1 (The Contract Price) and gives the wording for an additional subparagraph (e) concerning the importation of Contractor's Equipment. The second concerns an additional sub-clause under Clause 6 [Staff and Labour] - Sub-Clause 6.23 [Workers' Organizations] and recognises workers' rights to join workers' organisations. The MDBs have also developed their own definitions for Sub-Clause 15.6 [Corrupt or Fraudulent Practices]. The text following "For the purposes of this Sub-Clause:" in Sub-Clause 15.6 is that taken from the Master Procurement Documents for Procurement of Works & User's Guide (March 2006).

It is not intended that the Particular Conditions of the Harmonised Edition shall be used to add a whole variety of new or changed clauses. The General Conditions represent the conditions which the MDBs require the parties to use as the basis of their contractual relationship.

