

# Index

- Arbitral Proceedings
  - ICC arbitration
    - applicable rule of law, 149
    - case establishment, 151–2
    - case management conference and timetable, 151
    - closing and draft award submission, 152
    - conducting, 149–50
    - emergency arbitrator, 153–4
    - file transmission, 148
    - governing rules, 149
    - hearings, 152
    - interim measures, 153
    - language, 149
    - place, 148–9
    - proof of authority, 148
    - terms of reference, 150–151
  - SIAC arbitration, 184
- Arbitral Tribunal
  - ICC arbitration
    - arbitrator *see* Arbitrator
    - case management techniques, 171–2
    - constitution, 145–6
    - general provisions, 144–5
    - language, 149
    - place, 148–9
    - transmission, 148
  - SIAC
    - additional powers, 187–8
    - amiable compositeur*, 189
    - applicable law, 189
    - award *see* Award
    - confidentiality, 193
    - cost, 192
    - exclusion of liability, 192–3
    - expenses and fees, 192
    - experts appointment, 187
    - fees and deposits, 191–2
    - interim and emergency relief, 189
    - jurisdiction, 188–9
    - legal cost, 192
- Arbitration Institutions
  - CIETAC, 96
  - conduct arbitration, 96–97
  - DIAC, 96
  - ICC *see* International Chamber of Commerce (ICC)
  - traditional centers, 99–100
- Arbitrator
  - ICC arbitration
    - appointment and confirmation, 146–7
    - challenges, 147
    - disclose, 144
    - emergency, 153–4
    - impartial and independent, 144
    - number of arbitrators, 145
    - provisions, 145
    - replacement, 144, 147–8
    - responsibility, 145
    - sole, 145
    - three arbitrators, 145–6
  - SIAC arbitration
    - appointment, 180–181
    - challenges, 182
    - decision, 183
    - emergency, 194–5
    - multi-party appointment, 181
    - qualification, 182
    - repetition hearings, 184
    - replacement, 184

- Arbitrator (*cont'd*)
  - sole, 181
  - three, 181
- Award
  - draft award submission, ICC, 152
  - ICC arbitration
    - deposit, 155
    - enforcement, 155
    - making, 154–5
    - modification and signing, 155
    - notification, 155
    - parties consent, 155
    - remission, 156
    - time limits, final award, 154
  - SIAC arbitration
    - correction and additional, 190–191
    - description, 189–90
    - draft from submission, 189–90
- BOT *see* build-operate-transfer (BOT)
- Breach of contract, 3
- Build-operate-transfer (BOT)
  - concession period, 18
  - contract
    - construction, 20–21
    - offtake agreement, 21
  - parties
    - construction contractors, 19
    - financial institutions, 20
    - government/government agency, 18–19
    - operator, 19
    - project company, 19
- Case management techniques, ICC
  - arbitration, 171–2
- Claims, contract
  - accepting and rejecting, 86–87
  - making
    - form and information, 86
    - process, 85
    - requirement, 86
    - time limits, 85
  - non-specific identification, 83–84
  - specific identification, 82–83
- Compensation, 3–4
- Construction contract
  - FIDIC, 29–30
  - lump sum, 27–8
  - prime cost/reimbursable, 28
  - targets, 29
  - unit price, 28–9
- Contract
  - agreement, 4–5
  - breach of, 3
  - capacity and authority, 6–8
  - compensation, 3–4
  - definition, 3
  - dispute resolution, projects
    - agreement, 80–81
    - claim *see* Claims, Contract
    - features, 79–80, 82
    - governing law, 80
    - procedure, 81
    - rights and liabilities, 81–2
    - steps, 81
    - terms, 80
    - elements, 5–6
    - written *see* Written contract
- Contractor, FIDIC design-build
  - contracts
    - claim and arbitration, 74–5
    - completion test, 53–4
    - contract price/accepted amount, 45
    - Contractor's representative, 44
    - documents, 46–7
    - frameworks, 44–5
    - monthly progress report, 45–6
  - obligations
    - description, 41
    - 'fit for the purpose', 42–3
    - price, supplies and installation, 42
    - requirements, 43
    - rights, 42
    - Silver and Yellow books, 46
    - staff and labour, 47
  - performance security, 43–4
  - plant, materials and workmanship
    - inspections, 48–9
    - material samples, 48
    - ownership, 50
  - project execution, 48
  - rejection and remedial work, 49–50

- testing, quality and performance
  - of work, 49
- subcontract, 44
- suspension, 66–7
- tests after completion, 58
- termination, 67
- undertakings, 47
- unforeseeable difficulties, 45
- works, 43
- Costs and fees
  - ICC arbitration
    - administrative expenses and arbitrator's fees, 168–70
    - advance payment, 156–7, 164–6
    - authority appointment, 167–8
    - emergency arbitrator, 175–6
    - tribunal decisions, 157–8, 166–7
  - SIAC arbitration
    - determination, 192
    - legal, 192
- Defects liability
  - DNP, 56
  - extension, DNP, 57
  - performance certificate, 57
  - remedy, 56–7
  - repetition and cost, tests, 57
  - unfulfilled obligations, 58
- Defects Notification Period (DNP), 56–7
- Design responsibility
  - contractor, 24–5
  - silver and yellow books, 26
- Dispute resolution
  - arbitration
    - agreement, 95
    - award, 97–8
    - commencement, 96
    - conduct, 96–7
    - description, 94
    - enforcement of awards, 98–9
    - ICC, 101–3
    - institutions, 95–6
    - place, 95
    - traditional arbitration centres, 99–100
  - Construction projects
    - contract *see* Contract
    - features, 79–80, 82
    - FIDIC Dispute Adjudication Board
      - see* FIDIC Dispute Adjudication Board
    - final methods
      - arbitration, 90–91, 93–4
      - litigation, 92, 94
    - informal methods
      - conciliation, 93
      - description, 92
      - mediation, 93
      - unstructured negotiation, 92
  - Emergency arbitrator
    - ICC arbitration rules
      - application, measures, 172–3
      - appointment and file transmission, 173
      - challenges, 174
      - cost, 175–6
      - general rule, 176
      - Order, 174–5
      - place, 174
      - proceedings, 174
    - SIAC arbitration, 194–5
  - Employer responsibility
    - FIDIC design-build contracts
      - claims, 38–9
      - evidence of financial arrangements, 37–8
      - liability, 64
      - part of work, 55
      - right of access and possession, 37
      - works, 54–5
    - termination *see* Termination
- FIDIC design-build contracts
  - administration
    - determination, Yellow and Silver Books, 40–41
    - engineer, role, 39–40
    - instructions, 41
    - representatives, employer's, 41
  - commencement and time, 50
  - contractor *see* Contractor, FIDIC design-build contracts
  - defects liability *see* Defects liability
  - delays and extension of time, 52
  - description, 33

- FIDIC design-build contracts (*cont'd*)
- employer responsibility *see* Employer responsibility
  - force majeure *see* Force majeure
  - insurance, 71
  - payment *see* Payment
  - price variations and adjustments
    - cost fluctuations, 60
    - description, 58
    - laws and regulations changes, 59–60
    - right to vary, 58–9
    - variation procedure and value engineering, 59
  - programme, 50–52
  - prolonged suspension, 53
  - responsibility, 33–4
  - risk and responsibility
    - care of works and goods, 69
    - employer's risk, 69–70
    - indemnities, 68–9
    - liability limitation, 70–71
  - standard/boilerplate provisions
    - communications, 34–5
    - compliance, 36–7
    - hierarchy of documents, 35–6
    - language, 35
    - standard forms, 33
  - termination *see* Termination
  - tests after completion, 58
  - work suspension, 52–3
  - written contract, 33
- FIDIC Dispute Adjudication Board (DAB)
- appointment, 88
  - arbitration, 90
  - informal opinion, 89–90
  - proceedings and decision, 89
  - referring dispute, 89
  - scope, 88
- FIDIC Silver Book, 22–4
- Force majeure
- delay minimization and consequences, 72
  - discharge, 73–4
  - meaning, 71–2
  - notice, 72
  - prolonged effect, 73
- ICC *see* International Chamber of Commerce (ICC)
- insurance, 71
- Internal rules of International Court of Arbitration
- Committee, 163–4
  - confidentiality, work, 161–2
  - members participation, 162–3
  - relationships, 163
  - scrutiny, 164
  - Secretariat, 164
- International Chamber of Commerce (ICC)
- arbitration
- authority appointment, 167–8
  - award *see* Award
  - case management techniques, 171–2
  - commencement, 139–42
  - consolidation, 144
  - costs *see* costs and fees
  - definitions, 138
  - emergency rules *see* Emergency arbitrator rules
  - International Court of Arbitration, 137–8
  - joinder, 142–3
  - limitation, liability, 159
  - modified time limits, 158
  - multiple contracts, 143
  - multiple parties claims, 143
  - proceedings *see* Arbitral Proceedings
  - tribunal *see* Arbitral Tribunal
  - Waiver, 159
  - written notifications, 138–9
- dispute resolution
- agreement, 101
  - arbitrator appointment, 101
  - award, 103
  - features, rules, 102–3
  - notification, respondents, 101
  - procedure, 102
  - request, 101
  - statement and counter claim, 101
  - terms of reference, 102
  - tribunal, 102

- International Court of Arbitration  
(CASE NO: 12345/AB)  
answer to request, 125–6  
final award  
arbitration, 130  
contracts, 129  
costs, 136  
issues, 133  
milestone 3, 135–6  
parties, 129  
parties' representatives, 129  
progress of project, 132–3  
respondent's obligation, 133–4  
subcontract, 131  
subcontract price, 134–5  
tribunal's decision, 130–131  
reply to answer, 127–8  
request for arbitration  
disputes, 123  
interest, 124  
payments due under subcontract,  
123–4  
project, 122  
sums claimed, 124  
termination of subcontract, 124
- Liability  
defects *see* Defects liability  
limitation  
consequential loss/damage, 70  
contractor's, 70–71  
lump sum contracts, 27–8
- Payment  
advance, 61  
cessation, employer's liability, 64  
delay and charge, 62  
description, 60  
financial steps after taking over  
contractor's statement, completion,  
63  
final payment, 64  
final payment application process  
and discharge, 63–4  
interim, 60–61  
retention money, 61–2  
timing, 61  
prime cost/reimbursable contracts, 28
- Risk  
allocation, 15  
BOT, 18–21  
design responsibility, 24–6  
EPC /turnkey projects, 18  
FIDIC Silver Book *see* FIDIC Silver  
Book  
Red and Yellow Books, 15  
traditional approach  
engineer/architect, 16–17  
red and yellow book, 17  
unforeseen physical conditions, 24
- Singapore International Arbitration  
Centre (SIAC) arbitration  
arbitrator *see* Arbitrator  
domestic rules  
award, 195  
repeal, 196  
transitional provision, 196  
expedited procedure, 180  
general provisions, 193  
hearings, 186  
language, 186  
notice  
calculation, period of time, 178  
delivery, 178  
filing, 178  
requirements, 178–9  
response, 179  
written and electronic  
communication, 178  
proceedings, 184  
representatives, 186  
scope, 177–8  
seat of arbitration, 186  
statements submission, 185  
witnesses, 186–7
- Statutes of International Court of  
Arbitration  
appointment, 160  
Committees, 161  
confidentiality, 161  
function, 159–60  
members composition and Secretariat,  
160  
Plenary Sessions, 160–161  
rule modification, 161

- Target contracts, 29
- Termination
  - contractor
    - events, 67
    - payment, 67–8
    - requirements, 67
  - employer
    - contractor default, 65
    - own convenience, 66
    - payment, 66
    - works valuation and date, 66
- Tests on completion
  - contractor's obligations, 53–4
  - delay, 54
  - re-testing, 54
- Unit price contracts, 28–9
- Written contract
  - clarity and certainty, 8
  - construction
    - delay damages, 13–14
    - delays and extensions of time, 12–13
    - FIDIC, 11
    - particular conditions, 14
    - Programme, 12
    - requirements, 10–11
    - standard terms, 14
  - description, 5
  - FIDIC contracts, 35
  - procedure, 9
  - risk allocation, 9–10
- Yugo Design Company v Sino Industries Corporation*
  - appointment of tribunal, 110–112
  - arbitration, 110–112
  - award, 120–121
  - closing submissions
    - claimant, 120
    - proceedings, 118
    - tribunal members, 119
  - December meeting, 109–10
  - hearing
    - arbitration, 114
    - cross-examination, 118
    - proceedings, 116
    - tribunal, 114–15
    - witness's substantial evidence, 117
  - in International Court of Arbitration
    - see* International Court of Arbitration (CASE NO: 12345/AB)
    - letter of award, 106
    - letter of intent, 106–7
    - outcome, 121
    - parties, 105
    - progress, project, 108–9
    - project, 105
    - settlement, 115
    - settlement discussions, 113–14
    - subcontract, 107
    - terms of reference, 113