

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

设计采购施工(EPC)/交钥匙工程合同条件 Conditions of Contract for EPC/Turnkey Projects

1999年第1版

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



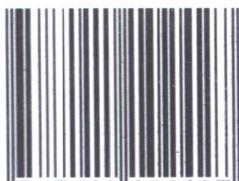
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菲迪克(FIDIC)文献译丛

设计采购施工(EPC)/交钥匙 工程合同条件

Conditions of Contract
for EPC/Turnkey Projects

国际咨询工程师联合会 编译
中国工程咨询协会

王 川 翻译 徐礼章 校译
王 川 徐礼章 唐 萍 审订

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(中英文对照本)

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机械工业出版社



本《设计采购施工(EPC)/交钥匙工程合同条件》(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,首次推出的。它继承了菲迪克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,作了重大调整。

本书内容包括设计采购施工(EPC)/交钥匙工程合同的通用条件,附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发展项目,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")即可运行。

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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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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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一版。新版《设计采购施工(EPC)/交钥匙工程合同条件》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《设计采购施工(EPC)/交钥匙工程合同条件》,不是在原有合同基础上修改,而是进行了重新编写,首次推出的。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年才正式首次出版了《设计采购施工(EPC)/交钥匙工程合同条件》。

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。

本书由王川翻译,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

INTRODUCTORY NOTE TO FIRST EDITION

FIDIC's Red and Yellow Books (i.e. standard forms of contract for works of civil engineering construction and for electrical and mechanical works) have been in widespread use for several decades, and have been recognised - among other things - for their principles of balanced risk sharing between the Employer and the Contractor. These risk sharing principles have been beneficial for both parties, the Employer signing a contract at a lower price and only having further costs when particular unusual risks actually eventuate, and the Contractor avoiding pricing such risks which are not easy to evaluate. The principles of balanced risk sharing are continued in the new "Construction" and "Plant and Design-Build" Books.

During recent years it has been noticed that much of the construction market requires a form of contract where certainty of final price, and often of completion date, are of extreme importance. Employers on such turnkey projects are willing to pay more - sometimes considerably more - for their project if they can be more certain that the agreed final price will not be exceeded. Among such projects can be found many projects financed by private funds, where the lenders require greater certainty about a project's costs to the Employer than is allowed for under the allocation of risks provided for by FIDIC's traditional forms of contracts. Often the construction project (the EPC - Engineer, Procure, Construct - Contract) is only one part of a complicated commercial venture, and financial or other failure of this construction project will jeopardize the whole venture.

For such projects it is necessary for the Contractor to assume responsibility for a wider range of risks than under the traditional Red and Yellow Books. To obtain increased certainty of the final price, the Contractor is often asked to cover such risks as the occurrence of poor or unexpected ground conditions, and that what is set out in the requirements prepared by the Employer actually will result in the desired objective. If the Contractor is to carry such risks, the Employer obviously must give him the time and opportunity to obtain and consider all relevant information before the Contractor is asked to sign on a fixed contract price. The Employer must also realize that asking responsible contractors to price such risks will increase the construction cost and result in some projects not being commercially viable.

Even under such contracts the Employer does carry certain risks such as the risks of war, terrorism and the like and the other risks of Force Majeure, and it is always possible, and sometimes advisable, for the Parties to discuss other risk sharing arrangements before entering into the Contract. In the case of BOT (Build-Operate-Transfer) type projects, which are normally negotiated as a package, the allocation of risk provided for in the turnkey construction Contract negotiated initially between the Sponsors and the EPC Contractor may need to be adjusted in order to take into account the final allocation of all risks between the various contracts forming the total package.

Apart from the more recent and rapid development of privately financed projects demanding contract terms ensuring increased certainty of price, time and performance, it has long been apparent that many employers, particularly in the public sector, in a wide range of countries have demanded similar contract terms, at least for turnkey contracts. They have often irreverently taken the FIDIC Red or Yellow Books and altered the terms so that risks placed on the Employer in the FIDIC Books have been transferred to the Contractor, thus effectively removing FIDIC's traditional principles of balanced risk sharing. This need of many employers has not gone unnoticed, and FIDIC has considered it better for all parties for this need to be openly recognised and regularised. By providing a standard FIDIC form for use in such contracts, the Employer's requirements for more risk to be taken by the Contractor are clearly stated. Thus the Employer does not have to attempt to alter a standard form intended for another risk arrangement, and the Contractor is fully aware of

第一版 序言

国际咨询工程师联合会(菲迪克 FIDIC)的**红皮书**和**黄皮书**(即《土木工程施工合同》和《机电工程施工合同标准格式》)已广泛推行应用几十年。它们的内容,包括**雇主**和**承包商**间平衡分配风险的原则,受到普遍认可。这些风险分配原则已使双方获益,**雇主**按较低价格签订合同,仅在最终实际发生特殊的非正常风险情况下,才增加进一步费用;而**承包商**避免了对此类难以估计的风险进行估价。此项风险平衡分配原则在新版“**施工**”书以及“**生产设备和设计-施工**”书中继续沿用。

近几年,已注意到很多建设市场需要一种固定最终价格、经常还有固定竣工日期的合同格式。**雇主**对此类交钥匙项目,往往愿意支付更多、有时相当多的费用,只要能确保商定的最终价格不被超过。在此类项目中,有许多项目是靠私人资金融资的,贷款人要求**雇主**的项目成本,比根据**菲迪克(FIDIC)**传统合同格式提供的风险分担产生的成本有更大的确定性。经常此类建设项目(即**设计采购施工(EPC)合同**)只是复杂商业投资事业的一部分,其资金或其他方面出问题将危及整个投资事业。

对于这类项目,**承包商**需要比根据传统的**红皮书**和**黄皮书**,承担更广范围的风险责任。为了取得最终价格的更大确定性,**承包商**往往被要求承担诸如出现不良或未预计到的场地条件等风险,**雇主**编制的**雇主要求**实际上将导致希望实现的目标。如果**承包商**要承担此类风险,显然**雇主**必须在要求**承包商**签署固定合同价格前,给他时间和机会,使他能得到和研究所有有关资料。**雇主**还需了解,要求负责任的**承包商**对此类风险做出估价,将会增加建设成本,导致有些项目可能在商业上变得不可行。

即使根据此类合同,**雇主**肯定要承担一定风险,如战争、恐怖主义和类似风险,以及其他不可抗力风险等,但对合同双方来说,在签定合同前,讨论一些其他风险分担方案常常是可能的,有时是明智的。在**BOT(建造-运行-移交)**项目的情况下,通常是一揽子的谈判,最初由项目发起人与**EPC(设计采购施工)承包商**协商的交钥匙施工合同规定的风险分配方案,可能需要进行调整,以便对组成整个项目的各类合同间对所有风险的最终分配,进行通盘考虑。

除了要求合同条款确保价格、时间和功能具有更大确定性的私人融资项目最近有了更快的发展以外,长期以来已明显看到,许多国家中的**雇主**,特别是公共部门,已要求类似的条款,尤其对交钥匙合同是这样。他们经常不遵照**菲迪克(FIDIC)**的**红皮书**或**黄皮书**,而将条款做了修改,把**菲迪克**标准合同中分给**雇主**承担的风险转移给**承包商**,实际上去掉了**菲迪克**平衡分配风险的传统原则。**菲迪克**对许多**雇主**的这一要求并没有忽视,但认为对合同各方的这一要求公开给予承认,使之合法化、规范化会更好。通过制订一个**菲迪克**标准格式,供此类合同使用,把要**承包商**承担更大风险的**雇主要求**写清楚,**雇主**就不必为了采取其他风险分配方案而修改标准格式了,而**承包商**可以充分了解他必须承担的附加风险。很

the increased risks he must bear. Clearly the Contractor will rightly increase his tender price to account for such extra risks.

This form for EPC/Turnkey Projects is thus intended to be suitable, not only for EPC Contracts within a BOT or similar type venture, but also for all the many projects, both large and smaller, particularly E & M (Electrical and Mechanical) and other process plant projects, being carried out around the world by all types of employers, often in a civil law environment, where the government departments or private developers wish to implement their project on a fixed-price turnkey basis and with a strictly two party approach.

Employers using this form must realise that the "Employer's Requirements" which they prepare should describe the principle and basic design of the plant on a functional basis. The Tenderer should then be permitted and required to verify all relevant information and data and make any necessary investigations. He shall also carry out any necessary design and detailing of the specific equipment and plant he is offering, allowing him to offer solutions best suited to his equipment and experience. Therefore the tendering procedure has to permit discussions between the Tenderer and the Employer about technical matters and commercial conditions. All such matters, when agreed, shall then form part of the signed Contract.

Thereafter the Contractor should be given freedom to carry out the work in his chosen manner, provided the end result meets the performance criteria specified by the Employer. Consequently, the Employer should only exercise limited control over and should in general not interfere with the Contractor's work. Clearly the Employer will wish to know and follow progress of the work and be assured that the time programme is being followed. He will also wish to know that the work quality is as specified, that third parties are not being disturbed, that performance tests are met, and otherwise that the "Employer's Requirements" are being complied with.

A feature of this type of contract is that the Contractor has to prove the reliability and performance of his plant and equipment. Therefore special attention is given to the "Tests on Completion", which often take place over a considerable time period, and Taking Over shall take place only after successful completion of these tests.

FIDIC recognizes that privately-financed projects are usually subject to more negotiation than publicly-financed ones and that therefore changes are likely to have to be made in any standard form of contract proposed for projects within a BOT or similar type venture. Among other things, such form may need to be adapted to take account of the special, if not unique, characteristics of each project, as well as the requirements of lenders and others providing financing. Nevertheless, such changes do not do away with the need for a standard form.

These Conditions of Contract for EPC/Turnkey Projects are not suitable for use in the following circumstances:

- o If there is insufficient time or information for tenderers to scrutinise and check the Employer's Requirements or for them to carry out their designs, risk assessment studies and estimating (taking particular account of Sub-Clauses 4.12 and 5.1).
- o If construction will involve substantial work underground or work in other areas which tenderers cannot inspect.
- o If the Employer intends to supervise closely or control the Contractor's work, or to review most of the construction drawings.
- o If the amount of each interim payment is to be determined by an official or other intermediary.

FIDIC recommends that the Conditions of Contract for Plant and Design-Build be used in the above circumstances for Works designed by (or on behalf of) the Contractor.

明显**承包商**为了考虑此类额外风险，将正当地增加投标价格。

为《设计采购施工(EPC)/交钥匙工程》拟订的这一合同格式，目的不仅要适用于BOT项目或类似投资模式下的设计采购施工(EPC)合同，还可适用于所有大小各类项目，特别是由世界上各类雇主实施的电气和机械、以及其他加工设备项目，这些项目经常处在民法环境下，政府部门或私人开发商都希望项目能在固定价格交钥匙的基础上，严格地由双方磋商。

采用这种格式时，雇主必须理解，他们编写的“雇主要求”在描述设计原则和生产设备基础设计的要求时，应以功能作为在基础。应允许并要求投标人对所有相关资料和数据进行核实，并做好任何必要的调查研究。他还应进行任何必要的设计和他将提供的专用设备和生产设备的详细说明，应允许他提出最适合于他的设备和经验的解决方案。因此，招标程序需允许在**投标人**和**雇主**间，就技术问题和商务条件进行讨论。所有这些事项达成协议后，将成为签订合同的组成部分。

随后，应给予**承包商**按他选择的方式进行工作的自由，只要最终结果能够满足雇主规定的功能标准。因而**雇主**对**承包商**的工作只应进行有限的控制，一般不应进行干预。无疑**雇主**希望知道和跟踪工程进展，并确保进度计划能够实现。他还希望了解工程质量达到规定要求，第三方不受干扰，性能试验满足要求，以及“雇主要求”的其他内容都能照办。

这种类型合同的一个特点是，**承包商**必须证明他的生产设备和装备的可靠性和性能。因此，对“竣工试验”给予特别注意。这些试验经常在相当长的期间内进行，而只有在这些试验成功完成后，工程才能接收。

菲迪克认识到，私人融资项目往往比公共部门融资项目需要更多的协商。因此，对建议用于BOT或类似投资型式项目的任何标准合同格式，可能必须做出修改。尤其是这类格式可能需要适应每个项目若非专有但特有的特点，以及贷款人或其他融资单位的要求。但是这些修改并不排除对标准格式的需要。

本《设计采购施工(EPC)/交钥匙工程合同》条件不适用于下列情况：

- 如果投标人没有足够时间或资料，以仔细研究和核查雇主要求，或进行他们的设计、风险评估和估算(特别是考虑第4.12和5.1款)；
- 如果建设内容涉及相当数量的地下工程，或投标人未能调查的区域内的工程；
- 如果雇主要严密监督或控制**承包商**的工作，或要审核大部分施工图纸；
- 如果每次期中付款的款额要经职员或其他中间人确定。

菲迪克建议，上述情况下由**承包商**(或以其名义)设计的工程，可以采用生产设备和设计-施工合同条件。

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The ultimate decision on the form and content of the document rests with FIDIC.

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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 Swed Power 的 Michael Mortimer-Hawkins, 德国 Schmidt Reuter Partner 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 Swed Power 的 Charles G Borthwick, 德国 Lahmeyer International 的 Manfred Breege, 西班牙 TYPSA 的 Pablo Bueno, 爱尔兰咨询工程师 Nael G Bunni, 新西兰 Beca Carter Hollings & Ferner 的 Ian Fraser, 英国牛津大学的 Roy Goode, 英国 Bristows Cooke & Carpmael 的 Dan W Graham, 英国 Griffiths & Armour 的 Mark Griffiths, 英国咨询工程师 Geoffrey F Hawker, 德国 VDMA 的 Hesse & Steinberger, 丹麦 Elsam-projekt 的 Poul E Hvilsted, 瑞典 Lindahl 的 Lennart Iwar, 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), 澳大利亚 Hopgood and Ganim 的 Martin Klapper, 南非的 Philip Loots & Associates, 英国 Merz and Mclellan 的 Neil Mccole, 英国 Victoria Russell & Paul J Taylor, Berrymans Lace Mawer 的 Matthew Needham-Laing, 英国 Binnie Black & Veatch 的 J Gordon Rees, 英国 Constant & Constant 的 Tim Reynolds, 英国的 David R Wightwan & Gerlando Butera, Nabarro Nathanson, 日本咨询工程师协会, 菲律宾建设工业局, 荷兰 Vereniging Voor Bouwrecht, 欧洲国际承包商(EIC), 欧洲金属工业联络组织(ORGALIME), 国际疏浚(挖掘)承包商协会, 国际律师协会, 亚洲开发银行和世界银行。向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。特别是 EIC 和 ORGALIME 曾对此 EPC (设计采购施工) 合同的某些条款表示保留。

菲迪克对所有上述人员和组织付出的时间和精力表示感谢。

对文件的格式和内容的最终决定由菲迪克负责。

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 EPC/Turnkey Projects, 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)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。

《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》,

推荐用于投资金额较小的建筑或工程项目。根据工程的类型和具体情况,这种格式也可用于金额较大的合同,特别是适用于相对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)提供的设计实施工程,但这种格式也可适用于包含或全部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,特别是要用于国内合同的条件,可能需要做些修改。菲迪克认为,正式、权威性的文本应为英文版。

在编写本《设计采购施工(EPC)/交钥匙工程合同》条件中感到,虽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

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 which would typically be prescribed by the Employer, then the sub-clause makes reference to this data being contained in the Particular Conditions or in the Employer's Requirements;
- (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 a check-list 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

用于多数(但非全部)合同的条款,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**专用条件**的内容。

本文本中**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**的措词需要**雇主**专门规定的进一步资料,这时,条款指明该资料将包含在**专用条件**或**雇主要求**中;
- (iii) 在**通用条件**中处理某一事项的条款,可能与不同的合同对该事项采用的合同条款不同时,编写此类条款应用的原则是:
 - (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,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、其他规定的范例措词、以及其他说明性材料和有助于编写**专用条件**和其他招标文件的核查表和范例措词,都包括在本文本**专用条件编写指南**中。在引用任何范例措词前,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。

当对范例措词进行修改,以及所有其他修改或补充的情况下,必须注意确保其与**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 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.

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
1.1.3.3	&	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