

CNC Counsel

Workshop on FIDIC 2017 Contracts NOTABLE CHANGES

Prepared by CNC

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▶ WHAT TO INCLUDE?

- ❑ The Inputs for the Updates
- ❑ Objectives of the Second Edition Rainbow Suite of Contracts
- ❑ Structures of the Rainbow Suites of Contracts (1999 vs 2017)
 - Exercise # 1: Structure of Red Book 1999
 - Exercise # 2: Structure of Red Book 2017
- ❑ A Summary of Notable Changes
 - Definitions
 - The Employer [all three books]
 - Engineer's Roles And Duty
 - The Contractor [all three book]
 - Exercise # 3: No Objection to As-built Records

▶ WHAT TO INCLUDE?

□ A Summary of Notable Changes

- Subcontracting [RB]
- Design [YB/SB]
- Staff and Labour [all three books]
- Plant, Materials and Workmanship [all three books]
- Commencement, Delays and Suspension [all three books]
- Defects after Taking-Over [all three books]
- Measurement and Evaluation [RB]
- Termination by Employer [all three books]
- Suspension and Termination by Contractor [all three books]
- Particular Conditions
- Enhanced Project Management Tools

▶ WHAT TO INCLUDE?

□ New/Improved Features In The 2017 Update

- New Sub-Clause To Improve The Parties Collaboration
- New Sub-Clause To Identify And Follow Procedures
- Sub-Clause Are Eliminated To Make The Contracts Consistently
- The Increased Significance Of Notices In The Updates (based on YB/non-exhaustive)
- Improved Reciprocity Between The Parties
- Improved Provisions Through Setting Time Limits For The Parties To Act
- For **Red Book** Clause 12 [*Measurement And Valuation*]
- The Engineer And The Engineer's Representative
- The Engineer's Instructions
- Agreement Or Determination
- Typical Sequence of Events in Agreement or Determination under Sub-Clause 3.7

▶ WHAT TO INCLUDE?

☐ Restructured Limitation of Liability

- Limitation Of Liability
- Parties' Responsibilities
- Exceptional Risks

▶ WHAT TO INCLUDE?

□ New/Improved Features In The 2017 Update

- Improved Clarity and Certainty: Performance Security
- Improved Clarity and Certainty: Unforeseeable Physical Conditions
- Health and Safety Obligations
- Quality Management and Compliance System
- Commencement of Works
- Initial Programme/Revised Programme
- Advance Warning
- Exercise # 4: Serving Advance Warning Notice
- Extension of Time
- Standard Set of Rules/Procedures in Use Internationally

▶ WHAT TO INCLUDE?

☐ Improved Clarity and Certainty in the 2017 Edition

- Test Programme/Revised Test Programme
- Taking Over the Works or Sections
- Variations

▶ WHAT TO INCLUDE?

❑ Claims and claim

- The 2017 Editions now distinguish two Claims
- Procedures related to MONEY and/or TIME Claims are detailed under Sub-Clause 20.2 [Claims for Payment and/or EOT]
- More time limits added

❑ Claims for Payment and/or EOT

- Notice of Claims
- Engineer's Initial Response
- Contemporary Records
- Fully Detailed Claims
- Agreement or Determination of the Claim

▶ WHAT TO INCLUDE?

❑ Avoidance of Dispute

- Standing DAAB
- Avoidance Of Dispute

❑ Updated Disputes Provisions

- In Summary
- Constitution of the DAAB
- Failure to Appoint DAAB
- Obtaining DAAB's Decision
- DAAB'S Decision
- Arbitration

❑ Increasingly Focus on Dispute Avoidance

▶ THANK YOU, QUESTIONS & EVALUATION

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