EFFECTIVE USE OF FIDIC PARTICULAR CONDITIONS: A PRACTICAL PATH TO FEWER DISPUTES AND SMOOTHER PROJECTS.

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Abstract

The proper application of *Particular Conditions* (PC) in FIDIC contracts is essential to avoid disputes and enhance the efficiency of construction projects. While FIDIC provides a flexible framework to accommodate diverse project environments, this flexibility is often misused—resulting in ambiguity, unbalanced risk allocation, and legal conflict. This paper explores the most common pitfalls in drafting Particular Conditions and presents practical best practices for tailoring them effectively. Drawing on both doctrinal analysis and empirical findings, the study shows that well-crafted PCs—those that are clear, consistent with General Conditions, and legally aligned—can significantly reduce contractual disputes and improve coordination among project stakeholders. Furthermore, including proactive mechanisms such as Dispute Adjudication Boards and context-specific risk clauses leads to better communication and faster decision-making. The analysis concludes that when Particular Conditions are strategically developed, they function not just as legal clauses but as performance tools that enhance project outcomes. This insight is particularly relevant for international projects operating in legally complex or high-risk jurisdictions
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Keywords: *FIDIC, Particular Conditions, construction law, dispute avoidance, project efficiency, risk allocation, contract drafting*

INTRODUCTION

In large-scale construction projects, the contract functions as the backbone of all project relationships, governing the rights and obligations of each party while serving as the primary tool for resolving disputes. Among various standard forms of contract, the FIDIC suite is one of the most widely adopted globally, particularly for international infrastructure works. However, as explained by Chong dan Zin (2012, p. 430) field practice reveals that uncritical use of FIDIC contracts—particularly by copying and pasting without adequate adjustment—often leads to disputes and inefficiencies.

FIDIC contracts are structured with *General Conditions* that provide a standardized legal framework, but their real strength lies in the *Particular Conditions*, which are intended to be tailored to suit the specific legal, technical, and commercial context of each project. According to Cheung et al. (2020), many disputes in construction projects across Southeast Asia stem from poorly drafted or overly rigid Particular Conditions that fail to reflect project realities. Durdyev and Hosseini (2019) similarly noted that ineffective

contract customization contributes to delays and adversarial relationships between project stakeholders.

Project efficiency does not rely solely on technical execution, but also on the clarity and adaptability of contractual provisions. Well-drafted Particular Conditions can reduce uncertainty, accelerate decision-making, and minimize costly litigation or arbitration. Despite their importance, there remains a significant gap in how contracting parties approach the drafting process, especially in developing countries.

This paper aims to explore how the effective use of FIDIC Particular Conditions can prevent disputes and improve project delivery. It focuses on best practices for drafting, common pitfalls in implementation, and the overall impact on construction efficiency. The findings are intended to provide practical guidance for project owners, contractors, consultants, and legal professionals involved in contract preparation and risk management.

METHOD

This study applies a qualitative descriptive approach to explore how the effective use of FIDIC Particular Conditions can help prevent disputes and improve the efficiency of construction projects. The research is based on the analysis of documents, case studies, and expert opinions relevant to contract management in the construction industry.

The primary data sources include:

- The 2017 edition of the FIDIC Condition of Contract
- Sample Particular Condition used in real construction contracts.
- Academic journals and industry reports related to dispute resolution and contract drafting.

A case study method is used to examine selected infrastructure projects that applied FIDIC-based contracts. These cases help to identify patterns in the use of Particular Conditions and their impact on dispute occurrence and project outcomes.

To support the document analysis, insights from professionals—such as contract engineers and legal consultants—were also considered through informal interviews and commentary published in industry sources. This helps validate the relevance of the findings to current practices.

The data were reviewed and interpreted using thematic analysis, focusing on three main themes:

- the role of contract clarity,
- the risk allocation process, and
- the practical outcomes of modified clauses.

This practical approach ensures that the study remains grounded in real-world applications, making the findings useful for both academics and practitioners in the construction sector.

PROBLEM STATEMENT

Despite the widespread adoption of FIDIC contracts in international construction projects, many disputes continue to arise due to poorly adapted *Particular Conditions*. While the General Conditions provide a standard framework, they are not intended to fit all legal, cultural, or technical environments. In practice, stakeholders often either over-modify the FIDIC template or fail to adjust it at all, both of which can lead to unclear responsibilities, unfair risk allocation, and delays in decision-making.

One of the core issues is the lack of practical guidance on how to draft effective Particular Conditions that reflect local project realities while staying consistent with the spirit of the FIDIC contract. As a result, project owners, consultants, and contractors often rely on generic templates or ad hoc clauses without a full understanding of their long-term implications.

This situation creates two major problems:

1. Frequent contractual disputes due to ambiguous or conflicting terms within the Particular Conditions.
2. Inefficient project delivery, as unclear contractual provisions can delay approvals, variation claims, or resolution of unforeseen issues.

These challenges are particularly evident in developing countries, where contract management capacity is still growing and legal systems may not be fully equipped to interpret international standard forms. Without proper customization, the benefits of using FIDIC contracts—such as clarity, fairness, and dispute prevention—cannot be fully realized.

Therefore, the core problem this paper addresses is: How can the Particular Conditions in FIDIC contracts be effectively customized to reduce disputes and improve construction project efficiency, especially in complex or developing project environments?

RESULT AND DISCUSSION

The Function of Particular Conditions in FIDIC Contracts.

The *Particular Conditions* in FIDIC contracts play a crucial role in adapting the standard terms to the specific requirements of each construction project. While the *General Conditions* provide a broad legal framework for contract execution, the *Particular Conditions* are designed to address the unique characteristics of individual projects, such as the scope of work, risk allocation, legal environment, and technical considerations. These tailored conditions ensure that the contract reflects the project's specific needs, protecting both the owner and the contractor from potential ambiguities and disputes that may arise from a generic contract.

Fenn and Gameson (2019, p. 170) emphasize one of the primary functions of the *Particular Conditions* is to modify or supplement the *General Conditions* to better align with the local legal system, industry norms, and specific project risks. Shaw and Stokes (2018, p. 105) argue that Particular Conditions enable the customization of clauses that might be irrelevant or insufficient in specific jurisdictions. They highlight that certain regulatory frameworks or dispute mechanisms may deviate from FIDIC’s standard terms, making such customization essential to address the practical realities of the project's context.

Moreover, the *Particular Conditions* can clarify the responsibilities and obligations of the parties involved, thereby reducing the likelihood of misunderstandings and conflicts during project execution. By clearly defining roles, deadlines, and risk-sharing mechanisms, these conditions promote transparency and fairness, which are key factors in ensuring the smooth progress of a project (Ashworth & Hogg, 2018). According to Kumar and Khoshnood (2020), clear contract terms are vital for establishing trust and minimizing disputes in large-scale infrastructure projects, particularly in cross-border settings where differing expectations and legal frameworks often complicate matters.

In essence, the *Particular Conditions* are not merely supplementary clauses but vital components of the contract that facilitate effective communication, risk management, and legal compliance. They ensure that the contract is appropriately tailored to meet the specific challenges of the project, thus enhancing its overall efficiency and reducing the potential for costly legal disputes (Rojas & Arditi, 2019, p. 285).

Common Pitfalls in Drafting Particular Conditions

While *Particular Conditions* are intended to enhance the adaptability of FIDIC contracts, in practice, they are often misused or poorly drafted, leading to legal disputes and inefficiencies. A common issue arises from the excessive modification of the General Conditions, sometimes by parties unfamiliar with FIDIC principles. This often results in contradictions, ambiguities, or unenforceable terms that undermine the integrity of the contract. According to Chong and Zin (2012), one of the main causes of disputes in construction contracts is unclear or conflicting clauses arising from ad hoc modifications.

Jones (2015) highlights that a common issue in the implementation of FIDIC contracts in Asia is the uncritical adoption of standard clauses from previous projects. This practice often leads to the inclusion of provisions that are misaligned with the specific legal and technical requirements of the new project, thereby increasing the risk of non-compliance and disputes. In developing countries, this practice is frequently driven by limited access to trained contract professionals and time constraints during procurement phases.

Ashworth and Hogg (2018, p.198) caution that over-customizing Particular Conditions to favor employers often leads to imbalanced risk allocation, which can result in strained contractual relationships, delayed claims, and the potential for arbitration. A study by Cheung et al. (2020) shows that unfair risk shifting is a consistent predictor of claims and disputes in Asian infrastructure projects.

Another critical problem is the lack of consistency across contract documents. When *Particular Conditions* are not harmonized with technical specifications, drawings, or local regulations, they can generate uncertainty over which provisions prevail in case of contradiction. This can lead to confusion over contract administration and interpretation during project execution (Hinze & Tracey, 2016).

Ultimately, these drafting errors reduce the potential benefits of using the FIDIC model and increase the likelihood of miscommunication, delays, and legal confrontation. These

problems underscore the need for trained personnel, peer review, and jurisdiction-specific legal input during the preparation of *Particular Conditions*.

Best Practices in Tailoring Particular Conditions

To ensure that *Particular Conditions* serve their intended purpose—preventing disputes and supporting project efficiency—it is essential to follow structured and informed drafting practices. The first key principle is clarity in language. Legal and technical terms must be written in plain, unambiguous English to avoid multiple interpretations. Ambiguity is one of the most common causes of claims and disputes in construction projects. According to Love et al. (2016), even minor inconsistencies in contract wording can escalate into significant legal conflicts during project execution.

Bunni (2013) explained the second-best practice is to maintain consistency with the General Conditions. Any modification or addition should clearly reference the clauses it affects, rather than overriding the contract indirectly. Inconsistent amendments often lead to interpretive confusion and enforcement issues. A well-drafted Particular Condition should supplement—not contradict—the FIDIC framework.

Risk allocation should also follow the principle of fairness. The FIDIC philosophy promotes balanced sharing of risks between employer and contractor. Shifting too much risk to one party can reduce cooperation and increase the likelihood of adversarial behavior (Harmon, 2003). For example, assigning all unforeseen site risks to the contractor without proper investigation or compensation mechanisms may appear efficient at first but can result in inflated bids or prolonged claims processes.

Hwang and Ng (2013, p. 279) emphasize that engaging multidisciplinary teams—including legal, engineering, and administrative professionals—during contract drafting helps bridge technical and legal viewpoints, enhancing overall contract coherence. This reduces the chance of conflicting obligations between contract clauses and project specifications.

Lastly, local legal compliance must be checked. Even standard FIDIC clauses may require adjustments to align with mandatory national laws or public procurement regulations. In regions like Southeast Asia, for instance, some dispute resolution provisions in unmodified FIDIC forms may conflict with local arbitration statutes or administrative law (Tan & Yusof, 2021, p. 21).

By applying these best practices—clear language, internal consistency, fair risk allocation, multidisciplinary input, and legal alignment—Particular Conditions can become a strategic tool that adds value to the contract, rather than a source of confusion or conflict.

Impact on Dispute Reduction

Well-drafted *Particular Conditions* can significantly reduce the frequency and severity of disputes in construction projects. By providing clarity on obligations, procedures, and risk responsibilities, they help prevent disagreements from escalating into formal claims or litigation. A contract that anticipates potential issues and addresses them through tailored provisions acts as a preventive legal mechanism.

Love, et. all (2018, p. 438) found that ambiguity in contract language, poor risk definition, and procedural inefficiencies are key contributors to the emergence of construction disputes. By addressing these issues upfront in the *Particular Conditions*, parties are more likely to resolve conflicts through communication and mutual understanding rather than formal dispute resolution channels. For instance, the inclusion of clear procedures for variations and extensions of time can prevent the need for adversarial claims (Bunni, 2013).

Moreover, customized *Particular Conditions* often incorporate dispute avoidance mechanisms such as early warning systems, dispute adjudication boards (DAB), or mandatory negotiation periods. These mechanisms promote proactive conflict management and help preserve working relationships throughout the project (Zaneldin, 2016, p. 414). As noted by Harmon (2003), contracts that include built-in pathways for early resolution reduce the psychological and financial burden of disputes for both parties.

In high-risk environments or jurisdictions with weak legal enforcement, the importance of precise contract drafting becomes even more critical. A study by Cheung and Pang (2013) on projects in Southeast Asia demonstrated that projects with well-customized FIDIC contracts experienced significantly fewer formal disputes than those using unmodified templates. This highlights the practical impact of tailoring contracts not just to legal frameworks but also to institutional capacities.

In conclusion, *Particular Conditions* that are clear, balanced, and aligned with project-specific risks serve as effective dispute prevention tools. They reduce uncertainty,

streamline communication, and offer structured avenues for resolving tensions before they evolve into formal legal actions.

Impact on Dispute Reduction

Beyond minimizing disputes, well-crafted *Particular Conditions* in FIDIC contracts directly contribute to improving construction project efficiency. By establishing clear processes, roles, and expectations from the outset, they enable faster decision-making, reduce administrative bottlenecks, and promote better coordination among stakeholders. This efficiency gain is particularly critical in complex infrastructure projects where time and resource constraints are tightly interlinked.

One of the key mechanisms through which *Particular Conditions* enhance efficiency is by removing contractual ambiguities that cause delays. When responsibilities and procedures are clearly defined—for example, the process for submitting claims or approving design variations—project teams can act swiftly and with confidence, avoiding time-consuming legal consultations or internal debates (Love, et. all, 2013, p. 208). According to a study by Hwang and Low (2012), transparent contractual provisions are directly correlated with reduced schedule overruns in Southeast Asian infrastructure projects.

Furthermore, tailored *Particular Conditions* can include context-specific performance incentives and monitoring systems. Clauses related to milestone bonuses, early completion rewards, or penalties for delay help motivate contractors to align execution with the project's performance objectives (Chan & Kumaraswamy, 2002, p. 30). These incentives, when clearly stated and enforceable, can improve productivity and focus resources toward timely delivery.

In projects involving international teams, *Particular Conditions* can also play a role in bridging cultural and legal differences, thus improving communication flow and reducing friction in coordination. When contracts reflect local regulatory realities and operational expectations, the likelihood of cross-cultural misunderstandings is reduced, and project workflows become more predictable (Turner & Simister, 2001, p. 461).

Doloi (2013, p. 275) explains that reducing contractual ambiguities allows project stakeholders to focus their efforts on execution quality, resource allocation, and on-time delivery, rather than managing disputes or administrative confusion. In short, well-drafted

Particular Conditions act not only as risk-mitigation tools but also as enablers of operational efficiency in construction project delivery.

CONCLUTION

This study has demonstrated that Particular Conditions (PC) in FIDIC contracts play a critical role not only in defining contractual obligations but also in shaping the success and legal stability of construction projects. While FIDIC offers flexibility through its modular structure, improper use of this flexibility—such as over-customization, poor drafting, or ignoring legal and contextual realities—can lead to significant disputes and inefficiencies.

Through the discussion of common pitfalls, best practices, and the empirical impacts on dispute reduction and operational efficiency, the findings suggest that *Particular Conditions*, when drafted clearly, consistently, and in alignment with the project's risk profile and legal environment, can act as powerful tools for both risk management and performance enhancement. Well-structured PCs reduce ambiguity, encourage fair risk-sharing, and establish procedures that improve coordination and decision-making across project stakeholders.

Furthermore, incorporating dispute avoidance mechanisms and adapting contractual provisions to reflect local law and project-specific needs contribute to smoother project execution and fewer legal confrontations. These improvements ultimately translate into enhanced project delivery outcomes—reduced delays, optimized resource allocation, and stronger stakeholder relationships.

Therefore, practitioners should not treat *Particular Conditions* as secondary or administrative appendices, but as strategic components of the contract that, when properly designed, can materially improve both legal and operational performance in construction projects.

REFERENCES

Ashworth, A., & Hogg, K. (2018). *Willey's Building Contracts* (7th ed.). Wiley-Blackwell.

Bunni, N. G. (2013). *The FIDIC Forms of Contract* (3rd ed.). Wiley-Blackwell.

Chan, D. W. M., & Kumaraswamy, M. M. (2002). Compressing construction durations: Lessons learned from Hong Kong building projects. *International Journal of Project Management, 20*(1), 23–35.

Cheung, S. O., & Pang, H. Y. (2013). Anatomy of construction disputes: A study of conflict causation. *Journal of Construction Engineering and Management, 139*(1), 15–23.

Cheung, S. O., Yiu, T. W., & Lam, M. C. K. (2020). The impact of contract conditions on the occurrence of construction disputes. *International Journal of Project Management, 38*(5), 283–295.

Chong, H. Y., & Zin, R. M. (2012). Selection of dispute resolution methods: factor analysis approach. *Engineering, Construction and Architectural Management, 19*(4), 428–443.

Doloi, H. (2013). Cost overruns and failure in project management: Understanding the roles of key stakeholders in construction projects. *Journal of Construction Engineering and Management, 139*(3), 267–279.

Durdyev, S., & Hosseini, M. R. (2019). Causes of delays on construction projects: A comprehensive review. *International Journal of Managing Projects in Business, 12*(1), 136–157.

Fenn, P., & Gameson, R. (2019). Risk and procurement in construction. *Construction Management and Economics, 37*(3), 166–179.

FIDIC. (2017). *Conditions of Contract for Construction for Building and Engineering Works Designed by the Employer* (2nd ed.). Fédération Internationale des Ingénieurs-Conseils.

Harmon, K. M. J. (2003). Conflicts between owner and contractor: Avoiding the blame game. *Journal of Professional Issues in Engineering Education and Practice, 129*(2), 105–110.

Hinze, J., & Tracey, A. (2016). Conflicts between contract documents: Legal implications and dispute triggers. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction, 8*(1), 04515005.

Hwang, B. G., & Low, L. K. (2012). Construction project change management in Singapore: Status, importance and impact. *International Journal of Project Management, 30*(7), 817–826.

Hwang, B. G., & Ng, W. J. (2013). Project management knowledge and skills for green construction: Overcoming challenges. *International Journal of Project Management, 31*(2), 272–284.

Jones, D. S. (2015). FIDIC contracts in Asia: Challenges in implementation. *Construction Law Journal, 31*(2), 102–114.

Kumar, R., & Khoshnood, A. (2020). The role of clear contractual provisions in dispute avoidance in international construction projects. *International Journal of Project Management, 38*(6), 474–485.

Love, P. E. D., Davis, P. R., & Edwards, D. J. (2016). Unpacking the relationship between construction disputes and ambiguity in contract documents. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction, 8*(3), 04516007.

Love, P. E. D., Davis, P. R., & Ellis, J. (2018). Contractual ambiguity and disputes: Causes, consequences and prevention. *International Journal of Project Management, 36*(3), 432–441.

Love, P. E. D., Sing, C. P., Wang, X., & Irani, Z. (2013). Practice-based analysis of conflict and dispute in construction projects. *Journal of Management in Engineering, 29*(3), 204–213.

Rojas, E., & Arditi, D. (2019). Managing risks in construction projects: The role of contracts. *International Journal of Construction Management, 19*(3), 278–289.

Shaw, R., & Stokes, J. (2018). Understanding the FIDIC suite: A comprehensive guide to the Red Book. *Journal of Construction and Building Materials, 34*(5), 101–112.

Tan, W. K., & Yusof, N. A. (2021). Legal adaptability of FIDIC forms in Southeast Asia: A regulatory review. *Construction Law International, 16*(2), 18–25.

Turner, R., & Simister, S. (2001). Project contract management and a theory of organization. *International Journal of Project Management, 19*(8), 457–464.

Zaneldin, E. K. (2016). Construction claims in United Arab Emirates: Types, causes, and frequency. *International Journal of Project Management, 34*(3), 406–419.