

TABLE OF CONTENTS

FOREWORD.....	7
ÖZET	9
ABSTRACT	11
TABLE OF CONTENTS	13
ABBREVIATIONS.....	19

CHAPTER ONE

THE NATURE OF CONSTRUCTION CONTRACTS

1. Exclusive Structure of Construction Projects.....	23
2. Particularities of Construction Contracts	24
2.1. Custom-Made Projects.....	24
2.2. Duration	25
2.3. Complexity	26
2.4. Construction Site.....	27
2.5. Financial Dimension	27
2.6. International Scope	29
2.7. Voluminous Documentation	30
2.7.1. Plant Description/Specification	31
2.7.2. Design	31
2.7.3. Bill of Quantities (BoQ).....	32
2.7.4. Contract Price	34
2.7.5. Payment Schedule / Milestones	34

2.7.6. Others	35
2.8. Need for Flexibility and Reformation.....	35
3. Parties of a Construction Project	36
3.1. Employer (Owner-Client-Customer)	36
3.2. Contractor(Entrepreneur).....	37
3.3. Subcontractor(s)	38
3.4. Engineer / Architect.....	39
3.5. Quantity Surveyor (Cost Consultant/Engineer)	40
3.6. Others	40
4. Obligations of Parties	41
4.1. Contractor’s Obligations.....	41
4.1.1. Execution of the Work	41
4.1.2. Duty to Inform.....	42
4.1.3. Delivery of the Work	43
4.1.4. Statutory Obligations	44
4.2. Employer’s Obligations	44
4.2.1. Payment of the Contract Price	44
4.2.1.1. Fixed Price / Lump Sum:	44
4.2.1.2. Unit Price / Re-Measurement:.....	45
4.2.1.3. Cost-Reimbursement / Cost-Plus:.....	46
4.2.2. Non-Hindrance and Collaboration	46
4.2.3. Duty of Notice for Defects.....	47
5. Types of Construction Contracts	48
5.1. Build-Only or Design-Bid-Build	48
5.2. Turn-Key or Design and Build (DB).....	49
5.3. Engineering, Procurement, and Construction (EPC)	50

Table of Contents	15
-------------------	----

5.4. Build, Operate, and Transfer (BOT)	51
5.5. Construction Management (CM)	51
6. Place in Swiss and Turkish Legal System	52
7. The Integral Part of Construction Contracts: Standard Rules.....	57
7.1. FIDIC	58
7.1.1. FIDIC Red Book	60
7.1.2. FIDIC Yellow Book.....	61
7.1.3. FIDIC Silver Book.....	62
7.2. NEC.....	62
7.3. JCT	63

CHAPTER TWO

POTENTIAL DISPUTES AND FORCE MAJEURE & HARDSHIP

1. Variations / Changes	65
1.1. Possible Variation Cases.....	65
1.2. The Scope of Variations.....	66
1.3. The Role of Engineer in Variations	68
1.4. Valuation Matter.....	69
2. Defects.....	70
2.1. Before Taking Over.....	71
2.2. After Taking Over	72
2.2.1. Defects Notification Period (DNP)	72
2.2.2. Remedies Against Defects	73
2.3. Serial Defects	74
2.4. Performance Certificate	74

3. Delays	75
3.1. Types of Delays.....	78
3.1.1. Critical / Non-Critical Delays	78
3.1.2. Excusable / Non-Excusable Delays	79
3.1.2.1. Compensable / Non-Compensable Delays:.....	80
3.1.3. Concurrent Delays.....	80
3.2. The Completion Date.....	83
3.3. Extension of Time (EoT).....	84
3.4. Entitlement to Additional Expenses and Loss.....	86
3.5. Liquidated Damages (LDs)	87
4. Force Majeure	89
4.1. Differences Arising From Impossibility Types	92
4.2. Perspective of FIDIC.....	93
4.2.1. Consequences of Exceptional Events	95
5. Hardship.....	96
6. Force Majeure and Hardship Scenarios With Current Issues Through The Example of A NPP Project in Turkey.....	98
6.1. COVID-19	99
6.2. Climate Chance.....	100
6.3. Sanctions and Embargos.....	103
6.4. Inflation or Fluctuations	104
7. Termination	105
7.1. Employer’s Termination	106
7.2. Contractor’s Termination and Suspension	108

CHAPTER THREE**DISPUTES RESOLUTION METHODS AND MULTI-TIER CLAUSES**

1. Conciliation and Mediation	110
2. Dispute Boards	112
2.1. FIDIC DAAB	113
3. Arbitration	114
3.1. Features and Advantages	115
3.2. Drawbacks	116
3.3. Ad Hoc vs Institutional Arbitration	118
4. Multi-Tier Clauses	119
CONCLUSION.....	123
BIBLIOGRAPHY	127