

# Mastering Engineering and Construction Contracts

Claims and disputes arising under  
NEC4, FIDIC, GCC and JBCC  
contracts Latest changes 2019 2nd edition of FIDIC

**28<sup>th</sup> – 30<sup>th</sup> October 2020**

Protea Hotel, Fire & Ice, Menlyn, Pretoria

Kindly find  
the attached  
COVID19  
protocol in  
the link  
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## WHO SHOULD ATTEND

Project managers  
Engineers  
quantity surveyors  
contract managers  
contract administrators  
planners  
project controls

claims consultants will gain practical knowledge  
to help them with their day-to-day tasks

## OVERVIEW

The construction industry is becoming ever more competitive and demanding. A detailed knowledge of the technicalities and legal framework within which the construction team operate has become indispensable in influencing, distributing and managing risk. Every member of the construction team should have an understanding of the contractual issues, the law regulating claims, negligence and other legal issues.

In an industry that is seeing increased insolvencies, increasing claims and numerous disputes, the importance of a sound understanding of the legal background cannot be underestimated. A thorough understanding of the legal framework provides the key to successful financial management and reliable risk management. Risk is inherent in projects undertaken by firms in the construction industry.

An understanding of the relevant procurement and contract administrative processes contribute to the management and avoidance of disputes and increase the chances of projects being completed on time and within budget. A detailed knowledge of these contracts has become indispensable and will assist contractors, employers and financiers in becoming more astute in influencing, distributing and managing risk.

### WHAT YOU WILL GAIN BY ATTENDING THIS WORKSHOP:

*Attention will be given to the major changes that have been introduced by the 2017 2nd Edition of FIDIC including the procedures applicable to making determinations, the new revised procedures applicable to claims by the contractor as well as by the employer, the extended role of the employer's representative and the emphasis given the dispute avoidance given the revised role, functions and powers of the DAAB (Dispute Avoidance and Adjudication Board).*

The workshop will enable participants to learn how to:

- Use contracts as tools to manage risk more effectively
- Decipher contract 'legalese' perspectives
- Distinguish the roles and responsibilities of the various parties and role players under FIDIC , NEC3, GCC 2010 , JBCC CONTRACTS
- Identify the differences and similarities between FIDIC, NEC4 GCC 2010 CONTRACTS
- Make effective procurement choices from amongst the different contracts that are available for your selection
- Fully understand the structure of FIDIC, NEC4, JBCC , 2010 CONTRACTS
- Gain practical tips on the procurement and administration of these contracts
- Understanding the processes applicable to contract variations, compensation events or claims for an extension of time and additional payment and the manner in which to prepare, to administer and to assess them
- Differentiate between dispute resolutions mechanisms applicable under FIDIC, NEC3, JBCC ,2010 CONTRACTS
- NEC4 Separately+- bookable

### FACILITATOR

#### Dr. Daniel Basch

Daniel views the wealth of knowledge and experience in his possession as gifts that allow him to not only teach, but to relate. Through determination, patience and tenacious thinking, Daniel can overcome all obstacles in search of the truth. His ability to reason and rationalise combined with earnest enthusiasm make him a proficient and vibrant speaker.

As a trainer and facilitator, Daniel can draw from a depth of knowledge. He has gone from sculpting young minds as a Computer Science, History and Life Orientation teacher to shaping the face of business today. He has led numerous training companies to success in the capacity of CEO as well as lecturing at CIDA City Campus and Walter Sisulu University, UNISA, Mangosuthu University, driving firm social and ethical principles through understanding and co-operation.

Daniel is a vibrant, enthusiastic and knowledgeable trainer and facilitator who will add value to any project and organisation with which he becomes with.

## DAY ONE

### Session One **Contextualising claims**

- Why do claims and disputes arise?
- Can they be avoided?
- The interrelationship between risk and claims

### Session Two **Variations**

- How and why do variations arise?
- Procedural aspects and issues to be aware of in connection with variations
- Dealing with the impact of variations on the cost to complete the works and delays to completion occasioned thereby

## Lunch Break

### Session Three **Identification of the events and grounds giving rise to an extension of time and/or additional cost claim under FIDIC, GCC and JBCC contracts**

### Session Four **The requirement to give Notice and other procedural aspects to be aware of in order to bring and to pursue claims for a revised completion date and/or for additional costs under FIDIC, GCC and JBCC contracts**

## DAY TWO

### Session One **NEC Compensation Events**

- What are they?
- The relationship between Early Warnings, Risk Reduction Meetings and Compensation Events

### Session Two **The role and responsibilities of the FIDIC and GCC Engineer, the NEC Project Manager and JBCC Principal Agent in making determinations and/or in the assessment of claims.**

- The NEC Schedule of Cost Components and its use in preparing quotations for Compensation Events

## Lunch Break

### Session Three **The use of the program, records and other documents required to properly quantify, draft and substantiate claims** **Delay analysis methods**

### Session Four **Notification and referral of disputes**

- Notice periods and procedural aspects
- Difference between adjudication and arbitration
- Dispute Avoidance and Dispute Adjudication Boards (DAB's)
- Point to consider Regarding the Selection and Appointment of the Presiding Officer
- Rules and procedures applicable to the conduct of proceedings
- Guidelines on the Preparation of the Statement of Claim and the Statement of Defence

### Session 1 – History and introduction to NEC4 contracts

A brief history of the NEC and how these contracts came about will be given. This will provide learners with a better appreciation of the main differences between this form of contracts and others and will focus on the nature of the partnering relationship between the parties and how this potentially affects both their behaviour and rights.

### Session 2 - Procuring a NEC contract.

The section of the course will focus on the selection of the main and secondary options.

The differences between the main options will be examined as will the effect of selecting or of not selecting a secondary option. Attention will also be given to the preparation of and application of the Contract Data. Attention will also be given to the importance and preparation of the Works and Site Information.

### Session 3 - Role of the project manager and supervisor

An in-depth look will be taken of the different and distinct roles and responsibilities of the project manager and the supervisor as well as aspects relating to the management and administration of NEC contracts generally.

### Session 4 – Use of the program and early warnings

The importance, use of and provisions relating to the supply and revision of the program will be discussed as will be early warnings. The relationship between early warnings and compensation events will be highlighted as will the consequences of failing to give early warnings.

### Session 5 – Payment provisions

The provisions applicable to payment, payment certificates, time for payment and remedies in case of non-payment or late payment will be examined and discussed.

### Session 6 – Compensation events

Each of the compensation events will be discussed and examined in detail. The procedures relating to notifying compensation events will be explained as will all aspects relating to the submission and preparation of quotations as well as their assessment.

### Session 7 – Use of the Schedule of Cost Components

An in-depth look will be taken at the Schedule of Cost Components. The differing use and application of the Schedule under the various main options will be examined and explained.

### Session 8 – Quality control

Provisions relating to tests and defects will be examined and discussed. The issue and importance of the defects certificate as well as the defects correction period will be examined.

### Session 9 - Dispute resolution and claims

The role and function of the adjudicator and other relevant dispute resolution mechanisms will be discussed as will the procedures and timelines relating to the declaration and submission of disputes.