

Introduction to Construction Contracts

Introduction to Construction Contracts

(A concise, easy-to-read guide for students, new professionals, and anyone interested in the basics of construction law.)

1. What Is a Construction Contract?

Element	Description
Definition	A legally binding agreement between the owner (client) and the contractor (and sometimes subcontractors, suppliers, or consultants) that sets out the terms for delivering a construction project.
Purpose	• Clarifies each party's rights and obligations. • Allocates risk (e.g., delays, defects, cost overruns). • Provides mechanisms for payment, change, dispute resolution, and termination.
Typical Scope	Design, site preparation, material supply, labor, equipment, testing, commissioning, and handover.

2. Core Components of a Construction Contract

1. Parties & Definitions

- Full legal names, addresses, and roles (owner, contractor, consultant, etc.).
- Glossary of key terms (e.g., "Work," "Site," "Force Majeure").

2. Scope of Work (SOW)

- Detailed description of the work to be performed.
- Reference to drawings, specifications, and any applicable standards.

3. Contract Price & Payment Terms

- **Types of pricing:** Lump sum, unit price, cost plus, target cost, or hybrid.
- Schedule of payments (mobilization, progress payments, final payment).
- Retention, liquidated damages, and interest on late payments.

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4. Time-Related Provisions

- **Commencement date** and **completion date** (or “substantial completion”).
- Schedule of milestones, critical path, and program updates.
- Extensions of time (EOT) procedures and penalties for delay.

5. Change Management

- **Change Order** process (request, evaluation, approval, pricing).
- Differentiation between **variations**, **extras**, and **omissions**.

6. Risk Allocation & Insurance

- Identification of risks (site conditions, weather, design errors).
- Required insurances: Commercial General Liability, Builder’s Risk, Workers’ Compensation, Professional Liability, etc.

7. Performance Guarantees & Bonds

- **Performance bond** (guarantee of completion).
- **Payment bond** (guarantee of subcontractor/sub-supplier payment).
- **Retention** and **defect liability** periods.

8. Quality & Inspection

- Standards to be met (e.g., ISO, ASTM).
- Inspection and testing procedures, acceptance criteria, and punch-list process.

9. Dispute Resolution

- Hierarchy: Negotiation ? Mediation ? Arbitration ? Litigation.
- Choice of law and jurisdiction.

10. Termination Clauses

- **For convenience** (owner-initiated).
- **For cause** (default, breach, insolvency).
- Consequences: settlement of outstanding amounts, demobilization, warranties.

11. Miscellaneous Provisions

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- Confidentiality, assignment, subcontracting, force majeure, notices, and governing language.
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3. Major Types of Construction Contracts

Contract Type	Key Features	Typical Use
Lump Sum (Fixed Price)	One total price for the entire scope; minimal price adjustments.	Well-defined projects with stable design.
Unit Price		