

LIFTED Knowledge Guides

# Building and Construction

This practice area deals with matters relating to building and construction, engineering and infrastructure projects. The practice comprises (i) contentious work (dealing with disputes) and (ii) non-contentious work (drafting and negotiating contracts, general procurement).

Proficiency Levels	
Intermediate	Advanced
<b>Pre-Contract.</b> Procurement (build only, design and build) (SOGA, CISG) and tenders (lump sum, rates)	<b>Project Investment, Funding and Financing.</b> Project financial arrangements and legal structures (BOT, BOOT, BTO, PPP), standard project loan documents, concesssion agreements, security and collateral arrangements.
<b>Contract Formation.</b> Types of Contract (Lump Sum, Remeasurement, Design and Build, Cost Plus).	<b>Cross-border issues.</b> Cross-border issues in relation to international contracts, international arbitration (including enforcement and setting aside of arbitral awards), international litigation (including enforcement and recognition of judgments), choice of law for contract and choice of law for arbitration agreement.
<b>Collaborative Contracting.</b> SIDP, Integraf, PSSCOC (with collaborative contracting option module E), NEC4 (with Y (SG) clauses)	<b>Procurement.</b> UNCITRAL Model Law on Procurement of Goods, Construction and Services.
<b>Contractual Obligations (Time).</b> Commencement, Completion, Extension of Time, Delays, Liquidated Damages, Claims for Prolongation and Disruption costs, Progressing Works with Due Diligence and Expedition, and Programmes.	<b>Delay and Disruption Analysis Techniques and Protocols.</b> Methods of delay analysis, expert evidence (choice of experts, evaluation), effect of concurrent delay, SCL Delay Protocol
<b>Contractual Obligations (Money).</b> Variations (scope, formalities, valuation, risk allocation), Value Engineering, Extra-contractual modes of recovery (collateral contracts, restitutionary quantum meruit), Claims for loss and expense (prolongation, acceleration)	<b>Contract Administration and Management.</b> Claims management and procedure under international standard forms (FIDIC), including payment regimes and early notification regimes.
<b>Contractual Obligations (General).</b> Scope of Work, Standard of Workmanship & Materials (reasonable skill and care, fitness for purpose), Risk Allocation (ground/physical conditions, neutral events, Force Majeure), guarantees, indemnities, warranties.	<b>Intra-disciplinary and industry knowledge.</b> Computational technology, energy, bankrcuptcy and insolvency, engineering, geology, quantity surveying, BIM basics.
<b>Security.</b> Peformance bonds (on-demand, conditional), retention monies, warranties, insurance, injunctions	Environment, Social and Governance (ESG) considerations.
<b>Defects.</b> Defects (patent vs. latent and limitation issues), basis of liability (contract/negligence), claims, operation of contract provisions relating to a defects liability period, limitation period, warranties, quantification of damages, duty to mitigate)	<b>ASEAN.</b> Basic familiarity with the legal system and laws relating to building and construction in Malaysia, Indonesia, Vietnam, and Thailand.
<b>Contract Administration and Management.</b> Notification of claims, procedure, interim payment regime (temporary finality (SIA)), certification and claims procedure under the contract and under SOPA, final accounting and interaction with final payment claim under SOPA	

Proficiency Levels



**Termination.** Termination at common law (rights and liabilities), termination under contract (procedure, rights and liabilities), wrongful termination, impact on SOPA, issues relating to retention of title and vesting and possession, final account

**Dispute Resolution.** Disputes Boards, Mediation, Expert Determination, Statutory Adjudication, Arbitration, Litigation.

Handling expert evidence (rules governing use of expert evidence, procedural considerations - e.g. hot tubbing)

**Third Parties.** Sub-contractors and suppliers, Consultants, and MCSTs (contractual arrangements, general responsibilities and payment arrangements, issues of contractual and tortious liabilities), assignment, novation

**Standard Forms.** SIA, PSSCOC, REDAS, NEC4 (with Y (SG) clauses)