Many large construction projects, such as those in the Middle East or Asia Pacific, are international in scope with a range of contractors and subcontractors signing contracts for delivery of specified work or services. The contractual situation in these instances may be complex and potentially includes a range of standard and bespoke contractual arrangements. In addition, the parties to these contracts may be based in different parts of the world, and are often working to different legal systems and understandings. This can lead to confusion in the understanding, interpretation and execution of a given contract.

International Construction Contracts: A Handbook provides concise and practical guidance to those involved in the negotiation and management of international construction and engineering contracts. It sets out in clear, straightforward language the main features of construction contracts and international dispute resolution procedures. It ensures the reader is aware of the issues that might arise on the contractual side of their project so that they may better protect their party’s interests. Many of the features and points discussed are illustrated by reference to the popular FIDIC contracts and the book includes a commentary on the two most widely used FIDIC design-build forms, the Yellow and Silver Books. Also included in the book is a fully worked example of a typical ICC arbitration from start to finish, with ‘pleadings’, a detailed case narrative and commentary on events, and an example arbitration award. The ICC and SIAC arbitration rules are also provided.

Written for construction professionals, the book will be of great interest to engineers, architects, project managers, quantity surveyors, contract managers and contract administrators working on international projects.

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William Godwin is a barrister specialising in construction, engineering, energy and infrastructure projects and has over twenty years’ experience of international construction acting for contractors, employers, developers and consultants in projects of all kinds. A regular speaker at the FIDIC international users’ conferences, William conducts accredited training in the FIDIC contracts through Matrix Seminars, is an arbitration panel member of the China International Economic and Trade Arbitration Commission and the Dubai International Arbitration Centre, and an approved adjudicator of the English Technology and Construction Bar Association.

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International Construction Contracts
International Construction Contracts

A Handbook

with commentary on the FIDIC design-build forms

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For Jane
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**Appendix IIB**

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The aim of this Handbook is to provide concise and practical guidance on the contractual aspects of international construction and engineering projects to all those involved in negotiating and managing them.

The aim is not to present an academic textbook but to set out clearly and in straightforward language the main features of construction contracts of which anyone involved in an international project should be aware.

We illustrate many of these features by reference to the current, well-known international standard form FIDIC contracts: the contract forms published since 1999 by the Fédération Internationale Des Ingénieurs-Conseils (the International Federation of Consulting Engineers). Among these FIDIC contracts are two design-build forms, the Yellow and the Silver Books, and we examine these systematically in the second part of this Handbook. We focus on them because design-build contracting, in which the contractor takes responsibility for all or most of the design, is increasingly the norm in international projects.

This Handbook covers such basic questions as: What is a contract? How is a contract to be distinguished from the various negotiations taking place between the parties before the contract is formed? How are the risks of construction typically allocated between the parties to a construction contract? And what do features of the FIDIC Red and Silver Books, for example, tell us about risk allocation in different types of project structure? One important type of structure we look at are concession-type projects.

Disputes and how to resolve them are important features of the management of any project. If the project goes badly and one or other party suffers some detriment, how can that party pursue a claim? How might such a claim be resolved? We examine mediation, conciliation, litigation and arbitration as well as 'intermediate' processes such as dispute review boards in answering these questions.

Arbitration requires special attention as the principal formal means by which international construction disputes are finally resolved. We look at the different international arbitration bodies, and recent developments in international arbitration such as the growth of regional centres in the Middle East and Asia Pacific.

In order to illustrate how an international arbitration might actually work, we provide a fully worked-out example of a fictitious London-sited International Chamber of Commerce arbitration from start to finish. This includes example 'pleadings,' a detailed case narrative and commentary on events, and an example arbitration award.
Construction is an international activity. Tower cranes can be seen against the skyline of any country. Many large projects are tendered on the basis of an international tender. Those involved in such projects need some guidance on issues which arise in negotiating and managing them. In this Handbook William Godwin provides simple, practical guidance on those issues.

The handbook has chapters which cover four main topics: contract, risk, forms of contract and dispute resolution. Those chapters approach the issues from a practical viewpoint and assume little or no basic legal knowledge. For instance, the chapter of contract explains what a contract is and deals with particular features of contracts, emphasising that much depends on the system of law which applies to the contract. It refers to features of a contract such as consideration, capacity and authority as well as the topics to be covered in a construction contract. The chapter on risk looks at design and procurement risks and the chapter on forms of contract deals with the pricing mechanisms in different forms of procurement. After explaining the traditional form of contract where the design is carried out by a consultant engaged by the employer, risks are considered in engineer, procure and construct or turnkey contracts and also build, operate and transfers and build, operate, own and transfer contracts, explaining the salient features of each of those procurement methods.

The dispute resolution chapter provides a practical view of the topic, dealing with the process from claim initiation through to resolution by ADR or arbitration. William has then introduced a practical example in the form of a mock International Chamber of Commerce arbitration between a Chinese party and a Serbian party, illustrating the various steps in the process of arbitration under the ICC Rules. For those who have no practical experience of how international construction arbitrations work, this gives a useful insight into the process.

Throughout the book reference is made to the standard suite of FIDIC forms of contract and a substantial part of the book is then taken up with a commentary on various obligations by reference to the FIDIC Silver and Yellow Books. Internationally, the FIDIC forms are commonly used and are well recognised as providing balanced forms of contract. Whilst the commentary is based on these forms, the principles are applicable to similar clauses commonly found in other contracts.

This book achieves its intended purpose as a practical guide. As stated in the preface it is not an academic textbook. It cites no cases and deals with general aspects of international construction contracts rather than contracts.
under a particular system of law. It is aimed at those who become involved in negotiating, drafting or dealing with international construction contracts and need assistance in understanding the process. It certainly fulfils that aim and provides a useful checklist for non-lawyers and for non-specialist lawyers who become involved in this field. It is written in an easy style whilst covering topics which involve some complexity. William is to be congratulated for providing a practical handbook which will be of great assistance in this specialist area.

Vivian Ramsey
Royal Courts of Justice, London
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William Godwin is a practising lawyer (barrister) based in London who specialises in construction, engineering, energy and infrastructure projects. He has over 20 years’ experience of international construction, and advises and acts for contractors, employers, developers and consultants in projects of all kinds. He is a regular speaker at the FIDIC international users’ conferences and conducts accredited training in FIDIC through Matrix Seminars.

William is a visiting lecturer in law at the School of Oriental and African Studies, London University and at City University London, and is an arbitration panel member of the China International Economic and Trade Arbitration Commission and the Dubai International Arbitration Centre. He is an approved adjudicator of the English Technology and Construction Bar Association.
Part I