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# Construction & Engineering Law 2026

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# United Arab Emirates


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## 1 Making Construction Projects

**1.1 What are the standard types of construction contract in your jurisdiction? Do you have: (i) any contracts that place both design and construction obligations upon contractors; (ii) any forms of design-only contract; and/or (iii) any arrangement known as management contracting, with one main managing contractor and with the construction work done by a series of package contractors? (*NB* For ease of reference throughout the chapter, we refer to "construction contracts" as an abbreviation for construction and engineering contracts.)**

In the United Arab Emirates ("**UAE**"), the most common standard form of contracts is the *Fédération Internationale des Ingénieurs-Conseils* ("**FIDIC**") suite of contracts. FIDIC contracts can be used for either construction only or design and construction. There is no standalone FIDIC contract for design purposes only.

The FIDIC 1999 suite of contracts (Red, Yellow, and Silver Books) remains the primary standard form of contract in the UAE.

FIDIC contracts are comprehensive, but parties often amend or add certain clauses to the existing General Conditions of Contract ("**General Conditions**"). While amending some provisions, the parties should be cognisant of the recently enacted UAE Civil Transactions Law, No. 25 of 2025 ("**Civil Code**"), with particular emphasis on Articles 812 to 839.

**1.2 How prevalent is collaborative contracting (e.g. alliance contracting and partnering) in your jurisdiction? To the extent applicable, what forms of collaborative contracts are commonly used?**

In the UAE, it is standard to have conglomerates or joint ventures ("**JV**") created between local and international contractors to bid for massive projects. JVs can be either incorporated or unincorporated. A significant difference between both types is that incorporated JVs will have a separate legal entity with the parties being shareholders, and thus the liability of the shareholders is limited to the percentage of their shares (unless agreed otherwise). On the other hand, the parties in unincorporated JVs can be held jointly and severally liable.

**1.3 What industry standard forms of construction contract are most commonly used in your jurisdiction?**

The most frequently used standard form contracts are FIDIC contracts. These contracts can be used for minor projects, e.g., FIDIC Short Form of Contract (Green Book) 1999 or 2021 editions, or the 1999 Red Book for building and engineering works. FIDIC's General Conditions are regularly amended via the Particular Conditions.

**1.4 Are there any standard forms of construction contract that are used on projects involving public works?**

Each emirate has its own legislation. In Abu Dhabi, Law No. 2 of 2019 on Regulating Partnerships between Public and Private Sectors regulates private sector participation in government development projects and sets out broad requirements for the private sector participant. In addition, the Abu Dhabi Executive Council issued Resolution No. 1 of 2007 on Issuing Construction, Design, and Build Contracts and Agreements Templates wherein it provided two templates, one for contracting agreements and the other for design and construction contracts.

In Dubai, Law No. 12 of 2020 on Contracts and Warehouse Management in the Government of Dubai, which came into effect on 1 January 2021, sets out the detailed requirements for: procurement; bid bonds; performance bonds; specifics on contract drafting; breach; payment; delay penalties; and *force majeure*. Additionally, the Dubai Municipality used to adopt its own standard contract that was based on the 1999 Red Book.

From a federal perspective, UAE Federal Ministerial Decision No. 20 of 2000 (as amended by Minister of Finance Resolution No. 90 of 2008) sets out the detailed requirements for tender procedures, bid and performance bonds, specific requirements in terms of contracts, and payments.

**1.5 What (if any) legal requirements are there to create a legally binding contract (e.g. in common law jurisdictions, offer, acceptance, consideration and intention to create legal relations are usually required)? Are there any mandatory law requirements that need to be reflected in a construction contract (e.g. provision for adjudication or any need for the contract to be evidenced in writing)?**

Pursuant to Articles 125 to 132 of the Civil Code, the foundational elements for a binding contract continue to be:

- **Mutual Consent**: A meeting of the minds through offer and acceptance.
- **Lawful Object**: The subject matter of the contract must be possible, defined (or definable), and legally permissible.
- **Licit Cause**: There must be a lawful underlying reason or motive for the obligations.

The Civil Code significantly expands the requirements for "valid" consent by codifying duties during the negotiation phase:

- **Duty of Good Faith in Negotiations**: Under Article 121, parties are now legally mandated to act in good faith while negotiating.
- **Duty of Disclosure**: Article 122 introduces a specific obligation to disclose material information of "decisive importance" to the other party. Failure to disclose such information can be viewed as a defect in consent, leading to potential annulment of the contract or liability for damages.
- **Framework Agreements**: The new law officially recognises "Framework Agreements" (Article 124), allowing parties to establish general terms for future specific contracts, provided the "essential elements" are agreed upon.
- **Legal Capacity**: Capacity remains governed by the age of majority (21 lunar years), but the new law provides more modern rules regarding representation and the legal personality of entities to streamline corporate contracting.

Contracts executed after 1 June 2026 must be supported by a clear "negotiation trail". Employers and contractors can no longer remain silent about site conditions or financial constraints if that information is of "decisive importance" to the other party's decision to enter into the agreement.

Construction contracts have specific provisions in the Civil Code. Article 813 states that there must be a description of the location, the kind of work, its quantity, and the way it should be performed. The duration of work must be described and, most importantly, the remuneration should be fixed. The Civil Code does not expressly specify that a construction contract should take written form; however, it would be difficult to have a verbal construction agreement. Notwithstanding that, Article 813 requires a description of, *inter alia*, the kind of work and how it should be performed, which is mostly done in writing.

### 1.6 In your jurisdiction, please identify whether there is a concept of what is known as a "letter of intent", in which an employer can give either a legally binding or non-legally binding indication of willingness either to enter into a contract later or to commit itself to meet certain costs to be incurred by the contractor whether or not a full contract is ever concluded.

Letters of intent ("**LOIs**") are common in the UAE construction industry following a successful tender, whether they are relevant to supply contracts, construction contracts or consultancy agreements. LOIs typically incorporate a clause stating that the LOI will take precedence over any other agreement between the parties until a formal contract is executed. It is not uncommon in the UAE for contracts to ultimately never be executed; therefore, the terms of the LOI stand as the only contractual relationship between the parties and care should be taken in making sure the draft contains sufficient coverage to mitigate risks until a potential subsequent comprehensive agreement is agreed between the parties.

### 1.7 Are there any statutory or standard types of insurance that it would be commonplace or compulsory to have in place when carrying out construction work? For example, is there employer's liability insurance for contractors in respect of death and personal injury, or is there a requirement for the contractor to have contractors' all-risk insurance?

FIDIC contracts and most bespoke contracts provide for the inclusion of insurance provisions whereby the parties are to agree the extent of the insurance cover within their contract provisions. In construction contracts in the UAE, contractors will be required to include contractors' all-risk insurance, professional indemnity insurance, public liability insurance, worker's compensation insurance and decennial liability insurance (which is a statutory requirement under Article 821 of the Civil Code).

Contractual caps or exclusions on decennial liability are void (Article 823). Developers should audit policies to ensure they match the 10-year window, not just the defects liability period.

### 1.8 Are there any statutory requirements in relation to construction contracts in terms of: (a) labour (i.e. the legal status of those working on site as employees or as self-employed sub-contractors); (b) tax (payment of income tax of employees); and/or (c) health and safety?

All construction workers in the UAE are entitled to statutory rights under the UAE Labour Law, whether they are foreign workers or UAE nationals (with the exception of those working in free zones). An employer cannot unilaterally decrease an employee's fundamental benefits. Fundamental benefits include salary and any remuneration element, as well as annual leave and an annual ticket to the worker's home country. Thus, an employee cannot be contracted out of their minimum statutory rights under the UAE Labour Law. Employers have a positive obligation to protect employees from hazards such as injuries and vocational diseases that may occur at work, fire hazards and any potential hazards arising out of the use of tools and machinery. The employer must apply all means of protection as approved by the Ministry of Labour and Social Affairs under various Articles of the UAE Labour Law. Additionally, the Dubai Code of Construction Safety Practice Obligations *vis-à-vis* income tax are not relevant in this jurisdiction because the UAE's taxation system only includes value-added tax ("**VAT**").

### 1.9 Are there any codes, regulations and/or other statutory requirements in relation to building and fire safety that apply to construction contracts?

In September 2018, the UAE enacted the Fire and Life Safety Code of Practice ("**FLS Code**") as issued by the Dubai Civil Defence department ("**DCD**"). On 12 March 2026, Abu Dhabi made more than 50 amendments to the FLS Code. Nowadays, contractors are fully aware of the FLS Code. Contractors must obtain approval from DCD on any design drawings (which should reflect all safety requirements in the FLS Code) prior to the commencement of any works.

The UAE also introduced Law No. 4 of 2025, which established the DCD General Command. This has reinforced and expanded fire safety and emergency preparedness requirements for buildings and construction projects.

Prior to the issuance of the Building Completion Certificate by the Dubai Municipality, an inspection will have to be made of the constructed building by DCD, which will certify whether the works are compliant with the FLS Code or not.

### 1.10 Is the employer legally permitted to retain part of the purchase price for the works as a retention to be released either in whole or in part when: (a) the works are substantially complete; and/or (b) any agreed defects liability period is complete?

There is no statutory requirement for retention to be withheld, but most FIDIC and other bespoke contracts do contain such provisions.

In practice, this is usually set at 10% of the contract price (as may be adjusted). The first half (5%) of the retention is usually released after the issuance of the taking-over certificate ("**TOC**"), and the second half of the retention (5%) is released upon the issuance of the defects liability certificate upon completion of the defects liability period, which is typically 12 months after the taking-over certificate is issued. Notwithstanding the foregoing, the parties might also include other conditions to release retention, e.g., furnishing the employer/main contractor with all as-built drawings, etc.

**1.11 Is it permissible/common for there to be performance bonds (provided by banks and others) to guarantee the contractor's performance? Are there any restrictions on the nature of such bonds? Are there any grounds on which a call on such bonds may be restrained (e.g. by interim injunction); and, if so, how often is such relief generally granted in your jurisdiction? Would such bonds typically provide for payment on demand (without pre-condition) or only upon default of the contractor?**

Employers always require contractors to provide a performance bond once they enter into a contract. In small projects, employers might request a guarantee cheque instead of a performance bond.

A template of the performance bond is usually annexed to the contract (which is common in FIDIC contracts).

Most performance bonds are on-demand, which provides the employer with the liberty to encash the bond by serving a written notice to the bank without the need to inform the contractor (unless agreed otherwise). The employer is not obligated to detail the breach committed by the contractor in its notice to the bank.

Article 1006 of the Civil Code introduces a six-month enforcement window for guarantors/bonds. This is a mandatory provision that reaches into existing bonds from 1 June 2026.

It is possible to file an attachment order over the performance bond before the UAE courts if the contractor has been made aware of the encashment that it considers to be unlawful. The contractor will have to provide valid grounds for applying for such attachment.

**1.12 Is it permissible/common for there to be company guarantees provided to guarantee the performance of subsidiary companies? Are there any restrictions on the nature of such guarantees?**

On specific occasions, and depending on the complexity of the project or financial capability of the contractor/subcontractor, a parent company guarantee can be provided instead of a performance bond. Furthermore, in certain projects, the parent company guarantee can be requested additionally to the subsidiary company's guarantee.

An example of the above scenarios is when an international main contractor is awarded a tender to construct a project in the UAE for the first time.

**1.13 Is it possible and/or usual for contractors to have retention of title rights in relation to goods and supplies used in the works? Is it permissible for contractors to claim that, until they have been paid, they retain title and the right to remove goods and materials supplied from the site?**

Whether the contracts are FIDIC or bespoke, often employers will incorporate certain provisions that will allow them to take ownership of goods and materials used once they are delivered to site.

## 2 Supervising Construction Contracts

**2.1 Is it common for construction contracts to be supervised on behalf of the employer by a third party (e.g. an engineer)? Does any such third party have a duty to act impartially between the contractor and the employer? If so, what is the nature of such duty (e.g. is it absolute or qualified)? What (if any) recourse does a party to a construction contract have in the event that the third party breaches such duty?**

In the UAE, construction contracts are often supervised by an engineer on behalf of the employer. The engineer may act as an agent on behalf the employer; however, his authority will be decided by the employer.

Unlike Sub-Clause 2.6 of the 1987 Red Book, which expressly states that the engineer must act impartially whenever exercising such discretion, the UAE does not set forth such duty in its legislation. It is worth mentioning that the subsequent editions of the Red Book, i.e., the 1999 and 2017 editions, have required the engineer to act neutrally and not impartially (especially when making determinations) in order to balance its dual role as agent for the employer and decision maker for the contract.

Due to the lack of express provisions of the engineer's duty to act impartially in the UAE, the engineer is always bound to act in good faith as per Article 221(1) of the Civil Code. Failing this, the engineer would be in breach of its statutory obligations (although it can be challenging to prove), which would allow the aggrieved party to commence proceedings against it.

The Civil Code refines engineer liability based on the "scope of engagement" (Article 822). If an engineer only designs, they are liable for design defects; if they supervise, they are jointly and severally liable with the contractor for execution/stability issues.

**2.2 Are employers free to provide in the contract that they will pay the contractor when they, the employer, have themselves been paid; i.e. can the employer include in the contract what is known as a "pay when paid" clause?**

"Pay when paid" clauses are inserted in most subcontracts between main contractors and subcontractors. Using the back-to-back clause, the main contractor will be in a position to pay the subcontractor only when it is paid from the employer.

To avoid enforceability issues, while drafting back-to-back clauses, the parties are advised to appoint a firm to review the wording of such clauses.

### 2.3 Are the parties free to agree in advance a fixed sum (known as liquidated damages) that will be paid by the contractor to the employer in the event of particular breaches, e.g. liquidated damages for late completion? If such arrangements are permitted, are there any restrictions on what can be agreed? E.g. does the sum to be paid have to be a genuine pre-estimate of loss, or can the contractor be bound to pay a sum that is wholly unrelated to the amount of financial loss likely to be suffered by the employer? Will the courts in your jurisdiction ever look to revise an agreed rate of liquidated damages; and, if so, in what circumstances?

Liquidated damages ("**LDs**") clauses – clauses that are genuine pre-agreed compensation estimates for loss as opposed to penalty clauses – are often included in construction contracts in the UAE.

Article 340 of the Civil Code replaces the old Article 390 of the 1985 Civil Code. While courts still have discretion to reduce LDs if they are excessive or for partial performance, the Civil Code adds a third ground: employer contribution to the loss (Article 340(3)). Upward revision by a court now requires proof of "fraud or serious fault" by the debtor.

## 3 Common Issues on Construction Contracts

### 3.1 Is the employer entitled to vary the works to be performed under the contract? Is there any limit on that right?

In both FIDIC and bespoke contracts, the employer will have a right to vary the works by way of either omission or addition. If the variation clause is clear and agreed upon in the contract, then the contractor must abide by Article 836 of the Civil Code and complete the works pursuant to the terms of the contract.

The contractor is considered to have completed its scope of work once the TOC is issued. Therefore, it is often rare to see any variations instructed after the TOC is issued.

### 3.2 Can work be omitted from the contract? If it is omitted, can the employer carry out the omitted work himself or procure a third party to perform it?

As mentioned above, the employer can omit works from the contract by way of variation.

There is nothing that can stop the employer from carrying out the works itself or procuring a third party to perform them. However, this may cause problems between the employer and the contractor, since the latter will have no certainty when bidding for a project moving forward.

### 3.3 Are there terms that will/can be implied into a construction contract (e.g. a fitness for purpose obligation, or duty to act in good faith)?

As mentioned in question 2.1 above, if the contract is governed by UAE law, then Article 221(1) of the Civil Code imposes a duty on the parties to act in good faith.

The duty of good faith is expanded. While the old Article 246 of the 1985 Civil Code required good faith in performance, the new Articles 119–122 of the Civil Code explicitly embed good faith as a principle for interpretation and pre-contractual negotiations.

In case of any ambiguity with the wording of the contract, Article 119(1) of the Civil Code provides that it will be necessary to ascertain the common intention of the parties. Article 119(2) adds that, when the wording of an ambiguous contract is construed, the nature of the transaction should be taken into account.

### 3.4 If the contractor is delayed by two concurrent events, one the fault of the contractor and one the fault or risk of the employer, is the contractor entitled to: (a) an extension of time; and/or (b) the costs arising from that concurrent delay?

There is no definition for concurrent delay in the UAE and often contracts do not address it. In case of any concurrent delay, the employer might award an extension of time with no prolongation costs.

### 3.5 Is there a statutory time limit beyond which the parties to a construction contract may no longer bring claims against each other? How long is that period and when does time start to run?

This generally depends on the terms of the contract. However, Article 92 of Federal Decree-Law No. 50/2022 ("**Commercial Code**") states that, in commercial contracts, the limitation period is five years, which starts from the date on which the obligation is met.

While Article 429 of the Civil Code states a limitation period of 15 years, the Commercial Code, stipulating the shorter period, takes precedence. It is therefore wise for any contractor operating in this jurisdiction to observe and abide by the five-year limitation period for bringing any claims.

The Civil Code introduces much shorter limitation periods under Articles 6 and 7. Claims for professional fees (engineers/architects), tort, and insurance are now three years (down from 15 in many cases). These periods apply immediately to unexpired claims from 1 June 2026.

### 3.6 What is the general approach of the courts in your jurisdiction to contractual time limits to bringing claims under a construction contract and requirements as to the form and substance of notices? Are such provisions generally upheld?

The FIDIC contract forms contain clear requirements for contractors to submit notices of claims within stipulated timeframes, and these notice provisions are typically treated as conditions precedent to the contractor's entitlement to compensation or extensions of time. However, in practice, courts and tribunals in the UAE are increasingly cautious about enforcing these time-bar provisions in a strict manner, especially when it appears that the party enforcing the bar was already aware of the breach or claim. This approach aligns with the principle of good faith under UAE law, which governs the conduct of contractual parties.

Furthermore, there is a growing recognition that denying a contractor's legitimate claim where the potential losses are substantial and out of proportion to the importance of strict compliance with notification deadlines may be seen as an abuse of rights under Article 106 of the Civil Code. In such cases, rigid enforcement of time-bars could be viewed as unfairly prejudicing the contractor's right to a fair hearing and resolution of their claim.

### 3.7 Which party usually bears the risk of unforeseen ground conditions under construction contracts in your jurisdiction?

It is dependent on the wording of the contract. Under a FIDIC contract, in case a contractor encountered unforeseen ground conditions, it must serve a notice on the employer. Following this, the engineer will inspect the site. The contractor must then carry on with the works and comply with any instructions from the engineer.

In case the contractor believes that it should be awarded any extension of time or additional costs, it should submit a formal claim, which will then be determined by the engineer.

### 3.8 Which party usually bears the risk of a change in law affecting the completion of the works under construction contracts in your jurisdiction?

The FIDIC suite of contracts remains the dominant standard for construction agreements throughout the Gulf region. Both the 1987 (including its 1992 amendments) and 1999 editions of the Red Book contain specific provisions addressing the allocation of risk arising from legislative changes, namely Sub-Clause 70.1 in the former and Sub-Clause 13.7 in the latter. These clauses generally place the burden of such risks on the employer, granting the contractor entitlement to both an extension of the project completion timeline and, typically, reimbursement for additional costs incurred due to changes in legislation. Despite this, it is a widespread practice within this jurisdiction for employers to remove these clauses during contract negotiations. Consequently, contractors often find themselves needing to negotiate diligently to have these protections reinstated in the final contract.

### 3.9 Which party usually owns the intellectual property in relation to the design and operation of the property?

The ownership of intellectual property related to the design and operation of a property is primarily determined by the terms set out in the contract between the parties. Under standard FIDIC contracts, the contractor typically retains ownership of the intellectual property but grants the employer extensive rights or a licence to use it.

In practice, through modifications to the FIDIC standard clauses or bespoke agreements, employers often seek to secure more comprehensive rights such as perpetual, irrevocable, freely transferable, and worldwide licences to ensure full and unrestricted use of the intellectual property.

### 3.10 Is the contractor ever entitled to suspend works?

One of the main reasons for a contractor to suspend works is non-payment by the employer.

Once the contractor's interim payment application is certified by the employer, then the latter, within the timeframe agreed upon in the contract, will need to pay the certified sum. Failing this, the contractor, by serving notice pursuant to the terms of the contract highlighting the employer's default, will either give the latter a chance to make payment or suspend the works immediately.

### 3.11 Are there any grounds that automatically or usually entitle a party to terminate the contract? Are there any legal requirements as to how the terminating party's grounds for termination must be set out (e.g. in a termination notice)?

This depends on the contract terms. However, from a statutory perspective, Article 232 of the Civil Code provides for three grounds to automatically terminate the contract:

- virtue of provision of law;
- mutual consent; or
- by a court order.

Additionally, and subject to the terms of the contract, insolvency of a party, *force majeure* and non-payment can be reasons for automatic termination.

### 3.12 Do construction contracts in your jurisdiction commonly provide that the employer can terminate at any time and for any reason? If so, would an employer exercising that right need to pay the contractor's profit on the part of the works that remains unperformed as at termination?

In this jurisdiction, some construction contracts include so-called "termination for convenience" clauses, which allow one party to unilaterally end the contract without needing to prove fault. Although case law on this matter is limited and not conclusive, our position is that contractors would generally have the right to claim compensation for lost profits on any portion of the work left unfinished at the time of termination. Furthermore, it is likely that the courts would treat such loss-of-profit claims similarly to claims arising from a contractual breach, regardless of the presence of a unilateral termination provision in the contract.

### 3.13 Is the concept of *force majeure* or frustration known in your jurisdiction? What remedy does this give the affected party? Is it usual/possible to argue successfully that a contract that has become uneconomic is grounds for a claim for *force majeure*?

*Force majeure* is a recognised concept in this jurisdiction and has been increasingly invoked since the COVID-19 pandemic as a reason to terminate contracts. Most UAE contracts include *force majeure* clauses that typically allow for extensions of time (unless agreed otherwise or considered a disruption). However, using *force majeure* as a basis to terminate a contract, especially by claiming that the contract has become uneconomic, is much more difficult.

To succeed with a *force majeure* claim, a party must demonstrate that: (1) the event was unforeseeable; (2) continuing the project is impossible (not merely more costly or difficult); and (3) the event could not have been avoided.

Based on recent experience, we recommend exercising caution when relying on this argument unless the circumstances clearly prove that performance of the contract is truly impossible.

### 3.14 Are parties, who are not parties to the contract, entitled to claim the benefit of any contractual right that is made for their benefit? E.g. is the second or subsequent owner of a building able to claim against the contractor pursuant to the original construction contracts in relation to defects in the building?

The general principle in the UAE is that privity of contract applies, which means that only parties to a contract enjoy the rights and obligations under it. Accordingly, third parties do not have an automatic right to claim benefits or enforce contractual terms against the contractor in the original contract.

Exceptions to the above can be made by way of assignment of rights and collateral warranties, which will then allow subsequent owners to claim benefits in the original contract. Additionally, Article 228 of the Civil Code expressly grants rights to third parties against the contracting party subject to the third party accepting the undertaking.

### 3.15 On construction and engineering projects in your jurisdiction, how common is the use of direct agreements or collateral warranties (i.e. agreements between the contractor and parties other than the employer with an interest in the project, e.g. funders, other stakeholders, and forward purchasers)?

Collateral warranties are both enforceable and considered a form of unilateral disposition in accordance with Article 239 of the Civil Code.

In projects involving a funder, it is common for the main contract to include a provision requiring subcontractors to obtain approval only if they enter into a warranty, duty of care, or direct agreement with the employer. This arrangement grants the employer direct recourse against the subcontractor for any defective work.

Typically, collateral warranties also include clauses for assignment and step-in rights. These provisions enable the employer to transfer the warranty obligations to other beneficiaries, such as subsequent owners, ensuring that they can enforce the warranty and protect their interests in the property.

### 3.16 Can one party (P1) to a construction contract, who owes money to the other (P2), set off against the sums due to P2 the sums P2 owes to P1? Are there any limits on the rights of set-off?

Most construction contracts in the UAE contain set-off clauses. Courts and arbitral tribunals generally apply set-off if the contract allows it and it does not breach public policy.

### 3.17 Do parties to construction contracts owe a duty of care to each other either in contract or under any other legal doctrine? If the duty of care is extra-contractual, can such duty exist concurrently with any contractual obligations and liabilities?

Although the law does not explicitly impose a duty of care, the principle of good faith under Article 221 of the Civil Code is inherently applied to contractual relationships. In practice, contracts commonly include a professional duty of care clause, where the contractor agrees and guarantees to carry out the work with the level of skill and diligence that would be reasonably expected from a competent contractor experienced in projects of comparable size and complexity.

Article 224 (hardship) is a mandatory safety net that cannot be excluded.

Article 829(3) specifically allows courts to restore "contractual equilibrium" in *muqawala* (construction) contracts by adjusting remuneration or extending time for unforeseen disruptions.

For temporary impossibility, Article 236(3) grants the court power to modify the contract rather than just terminate it.

### 3.18 Where the terms of a construction contract are ambiguous, are there rules that will settle how that ambiguity is interpreted?

Under Article 120(1) of the Civil Code, contracts are fundamentally based on the mutual consent of the parties and their agreement on respective obligations. According to Articles 119 and 120, contract terms should be interpreted according to their plain and ordinary meaning, and figurative interpretations are only permitted when the literal meaning is impossible to apply. Thus, the wording of a contract must be understood in light of the parties' intentions at the time the agreement was made. Furthermore, as mentioned in question 3.3 above, Article 119(2) requires that interpreting the true meaning of contractual terms involves considering the nature of the transaction, the trust and confidence between the parties, and the customary practices relevant to such agreements.

### 3.19 Are there any terms that, if included in a construction contract, would be unenforceable?

Any contractual provision that contradicts a mandatory rule under UAE law will be deemed unenforceable. For instance, clauses that seek to exempt or limit the liability of contractors or designers are prohibited by law, specifically under Article 823 of the Civil Code.

Attempts to bypass or avoid mandatory Civil Code provisions are invalid and will not be upheld by UAE courts. Two key mandatory provisions include Article 224, which addresses exceptional circumstances, and Article 821(1), which imposes decennial liability on contractors and architects. Article 823 explicitly states that any agreement aiming to exempt or reduce such liability is null and void.

Similarly, Article 223 contains language reinforcing that any contractual term contrary to its provisions shall be regarded as void. These mandatory rules serve to protect public interest and ensure accountability in construction projects, preventing parties from contracting out of essential legal responsibilities.

### 3.20 Where the construction contract involves an element of design and/or the contract is one for design only, are the designer's obligations absolute or are there limits on the extent of his liability? In particular, does the designer have to give an absolute guarantee in respect of his work?

In the UAE, the liability of a designer – more commonly referred to as an engineer – is governed primarily by Article 821(1) of the Civil Code. This provision establishes that the engineer and the contractor are jointly and severally liable to the employer for any total or partial collapse of the constructed works within a 10-year period following handover. This strict liability, known as decennial liability, does not require proof of fault or negligence.

If the engineer's role is limited solely to preparing the design without supervising the construction, their liability is confined to defects arising from the design itself, as set out in Article 822(1) of the Civil Code. However, as per Article 822(2), where the engineer supervises the works, they share full responsibility for both design and construction defects that affect the building's stability or safety.

This legal framework ensures that both contractors and engineers remain accountable for the structural integrity of a project for a decade after completion. Importantly, attempts to exclude or limit this decennial liability are void under Article 823 of the Civil Code, reflecting the mandatory nature of these protections.

### 3.21 Does the concept of decennial liability apply in your jurisdiction? If so, what is the nature of such liability and what is the scope of its application?

As frequently mentioned in the answers above, the concept of decennial liability applies. Article 821(1) of the Civil Code establishes that both the contractor and the architect (or engineer) are jointly responsible for any total or partial collapse of a building they have constructed or designed, for a period of 10 years following the handover of the works. If the architect's role is limited to preparing the design without supervising construction, their liability is confined solely to defects arising from the design itself.

This concept, known as decennial liability, is a mandatory legal requirement in the UAE and cannot be waived or excluded by contractual agreement.

Article 821(1)'s scope covers not only total or partial collapse but also any defects that threaten the stability or safety of the structure. The liability period begins from the date the works are delivered, typically marked by the issuance of a TOC, and lasts for 10 years.

Articles 821–823 replicate the 10-year strict liability for structural collapse. Any contractual agreement to limit, cap, or shorten this liability (less than three years from discovery) is null and void (Article 823).

## 4 Dispute Resolution

### 4.1 How are construction disputes generally resolved?

Arbitration and litigation are the methods of resolving construction disputes in the UAE. The choice is dependent on the parties' choice of dispute resolution mechanism.

### 4.2 Do you have adjudication processes in your jurisdiction (whether statutory or otherwise) or any other forms of interim dispute resolution (e.g. a dispute review board)? If so, please describe the general procedures.

Although there is no statutory adjudication in the UAE, FIDIC contracts provide for disputes to be resolved by a Dispute Adjudication Board ("**DAB**"), which serves as a penultimate step before arbitration. However, resorting to DABs will be decided by the parties in their amendments to the General Conditions.

The most commonly used iteration of the FIDIC standard forms of contract, the 1999 Red Book, introduced and provides for the appointment of a DAB, as well as including provisions for amicable settlement prior to the commencement of arbitration, pursuant to the Rules of Conciliation and Arbitration of the International Chamber of Commerce ("**ICC**"). The FIDIC Conditions of Subcontract 2011 also provide for both DABs and the final determination of disputes, pursuant to the Rules of Conciliation and Arbitration of the ICC.

There are two types of DAB: standing; and *ad hoc*. Standing DABs are appointed from the outset of the project and are present until completion of the project (unless decided otherwise). On the other hand, an *ad hoc* DAB is appointed once a dispute arises. In the UAE, parties are reluctant to appoint a standing DAB.

### 4.3 Do the construction contracts in your jurisdiction commonly have arbitration clauses? If so, please explain how, in general terms, arbitration works in your jurisdiction.

In the UAE, arbitration agreements for disputes outside the Abu Dhabi Global Market ("**ADGM**") and Dubai International Financial Centre ("**DIFC**") are governed by Federal Law No. 6 of 2018 (as amended), known as the UAE Arbitration Law. This law is based on the United Nations Commission on International Trade Law ("**UNCITRAL**") Model Law.

ADGM and DIFC have their own separate arbitration rules, also based on the UNCITRAL Model Law: the DIFC Arbitration Law (2008); and the ADGM Arbitration Regulations (2015).

The UAE Arbitration Law requires arbitration agreements to be in writing. These agreements can be included by reference or through correspondence. However, unlike the UNCITRAL Model Law, the person signing the arbitration agreement must have *locus standi*. The law also ensures that arbitration proceedings and awards remain confidential, which the UNCITRAL Model Law does not specifically cover.

If there is a valid arbitration agreement, UAE courts must reject any related court case if the other party raises the arbitration agreement early on. The arbitral tribunal can also issue interim orders and ask for security from a party. These orders can be enforced by the courts.

By default, arbitration under the UAE Arbitration Law is conducted in Arabic. If the parties want to use a different language, they must agree to it.

### 4.4 Where the contract provides for international arbitration, do your jurisdiction's courts recognise and enforce international arbitration awards? Please advise of any obstacles (legal or practical) to enforcement.

The UAE Arbitration Law distinguishes between domestic and international arbitration. International arbitration includes cases where the arbitration is seated outside the UAE or where the dispute involves connections to multiple countries.

UAE courts recognise and enforce arbitral awards made outside the UAE. Cabinet Resolution No. 57 of 2018 sets out the rules for enforcing foreign arbitral awards, which are similar to those for foreign court judgments. To enforce a foreign award, the dispute must be one that could have been arbitrated under UAE law.

Article 53 of the UAE Arbitration Law outlines specific grounds to challenge an arbitral award, such as lack of a valid arbitration agreement, improper notice or appointment of arbitrators, failure to apply the agreed law, invalid proceedings, decisions beyond the arbitration scope, or awards conflicting with public order or morality.

The UAE has been a party to the New York Convention since 2006, which facilitates recognition and enforcement of foreign arbitral awards from other member countries. Additionally, the UAE is part of regional agreements like the Gulf Cooperation Council ("**GCC**") Agreement on Enforcement of Court Judgments and the Riyadh Convention, supporting the enforcement of arbitration decisions within Gulf states.

**4.5 Where a contract provides for court proceedings in your jurisdiction, please outline the process adopted, any rights of appeal and a general assessment of how long proceedings are likely to take to arrive at: (a) a decision by the court of first jurisdiction; and (b) a decision by the final court of appeal.**

The UAE's judicial system operates at both federal and local level, with each emirate having the option to either join the federal judiciary or maintain its own courts. Most emirates, Ajman, Fujairah, and Umm Al Quwain, follow the federal court system, while Abu Dhabi, Dubai, and Ras Al Khaimah have established independent local judicial systems. Sharjah previously followed the federal court system; however, recently it established its own local judicial system.

Each system generally consists of three tiers of courts: the Court of First Instance; the Court of Appeal; and the highest court – either the Federal Supreme Court at the federal level or the Court of Cassation in the local emirates with independent courts.

The Court of First Instance primarily handles factual determinations and relies on court-appointed experts to assess technical matters, while legal issues are reserved for the judges. Proceedings, including hearings and documents, are conducted in Arabic, and advocates appearing before the courts are mostly UAE nationals.

Parties have an automatic right to appeal decisions through the court hierarchy, often progressing from the Court of First Instance to the Court of Appeal, and ultimately to the Court of Cassation or the Federal Supreme Court. Typical durations for cases are around six to 12 months at first instance, four to eight months at appeal, and three to six months at the highest level.

Unlike the DIFC, ADGM and other jurisdictions, UAE onshore courts do not generally award legal costs to the prevailing party. The legal system does not follow binding precedent, but prior rulings are often cited and can influence judgments.

Enforcement of court judgments requires separate execution proceedings. Once a judgment creditor obtains approval from the execution court, the debtor has 15 days to comply. Failure to pay may lead to enforcement actions, including seizure of assets or suspension of the debtor's commercial licence.

**4.6 Where the contract provides for court proceedings in a foreign country, will the judgment of that foreign court be upheld and enforced in your jurisdiction? If the answer depends on the foreign country in question, are there any foreign countries in respect of which enforcement is more straightforward (whether as a result of international treaties or otherwise)?**

Cabinet Resolution No. 57 of 2018, as amended by Cabinet Resolution No. 75 of 2021, sets out the Executive Regulations of the Civil Procedure Code and allows for the enforcement of foreign court judgments within the UAE. To enforce such a judgment, the creditor must submit a legalised and attested Arabic translation of the final judgment to the UAE execution courts. Additionally, the foreign judgment must be final and not subject to appeal in its original jurisdiction.

The UAE courts will not reconsider the merits of the case, provided they determine that they would not have had jurisdiction over the original dispute.

The UAE has bilateral agreements for mutual enforcement of judgments with countries including Armenia, Azerbaijan, China, France, India, Kazakhstan, Nigeria, and Pakistan.

The enforcement of judgments is also possible within DIFC and ADGM courts, and there is reciprocal recognition of judgments between these free-zone courts and the onshore UAE courts. Furthermore, DIFC and ADGM courts benefit from bilateral memoranda of understanding with jurisdictions such as Australia, England & Wales, Hong Kong, New Zealand, and Singapore to facilitate mutual enforcement of judgments.

**4.7 Do you have any special statutory remedies and/or dispute resolution processes in your jurisdiction for building safety-related claims?**

The UAE does not have a specific statutory dispute resolution process for building safety-related claims. However, there are several unified building codes that are enforced by local municipalities.

**Humayun Ahmad** is a Partner specialising in contentious Engineering & Construction matters. He is an experienced disputes practitioner with 20 years' experience of advising developers, funders, main contractors (sole and JV), subcontractors (sole and JV), employers (private and government-related), engineers and architects on bringing and defending complex and high-value claims relating to issues such as time, cost and quality, extensions of time, loss and expense, variations, payment and final account claims.

Specifically, Humayun has represented clients in arbitrations seated in various jurisdictions including Dubai, Abu Dhabi, Oman, Bahrain, Kuwait, Qatar and Saudi Arabia. These have been governed by prominent institutional rules, including those of DIAC, SCCA, LCIA, and ICC, as well as *ad hoc* and UNCITRAL Rules. Such disputes have been resolved under a variety of national laws. Humayun also advises construction clients during the execution of their projects. Working in a Project Counsel role, Humayun advises on contractual entitlements and on correspondence, notices, variation and claim submissions brought during the life cycle of the project. He has worked on a variety of projects across the Middle East, including building, construction, engineering, rail, infrastructure, healthcare, mining and oil and gas projects.

Humayun has considerable expertise in the Gulf region, having moved here in 2008. He initially spent three years in Saudi Arabia and was one of the first Western-qualified arbitration specialists to be permanently based there. Thereafter, Humayun worked for four years in Oman and has been subsequently based in the UAE since 2016. He has previously been recognised in legal directories as a "…first-rate, high-class lawyer who provides excellent legal and commercial advice" and as a "senior lawyer who is very approachable and does not seek to over-complicate his advice" in relation to construction, oil and gas, energy and general commercial disputes.

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Karim has extensive knowledge of *ad hoc* and institutional arbitration. He also has strong experience in drafting, setting case strategies, and crafting statements of all types. He frequently acts as counsel before several arbitral institutions (ICC, LCIA, formerly DIFC-LCIA and ADCCAC, SIAC, and DIAC) under disputes arising from construction, oil and gas, real estate purchase agreements, and commercial transactions. Karim also advises on pre-dispute matters and negotiations.

In addition, Karim has considerable experience with litigation cases before UAE courts related to construction and real estate issues. He is an administrative manager for MetaverseLegal (a decentralised page dedicated to legal implications of the Metaverse).

Prior to joining Hadef & Partners, Karim worked in boutique firms specialising in dispute resolution mainly in the UAE. Karim has also dealt with disputes in Qatar.

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