



# Contract legal aspects and types

## Legal aspects ( volet juridique):

- **Project Scope and Performance Standards:** must be defined in details by describing the work to be performed, **quality standard**, and the expected reception. Failure to commit will lead to dispute according to contract clauses.
- **Payment and Compensation:** Contract stipulate the payment mode the schedule of work and the currency of payment.
- **Timeframes and Delays:** specify the project timeline and may include penalties for delays as per the agreed Terms and Conditions ( T&C).
- **Risk Allocation and Insurance:** contracts allocate risks between parties. Insurance requirements, such as liability and worker's compensation to protect the parties involved in case of accidents, damage, or disputes.
- **Dispute Resolution:** In case of disagreements the contract define the resolution process ( negotiation, mediation, arbitration or litigation) and the legal court for dispute and the language used for that.
- **Regulatory Compliance:** The contract should outline who is responsible for obtaining permits and meeting country legal requirements.
- **Termination and Suspension:** Circumstances under which the contract can be terminated or suspended should be clearly mentioned (breaches of contract ( violation des clauses/rupture de contrat), insolvency (insolvabilité), or force majeure events.



# Contract legal aspects and types

## **Important:**

A well-drafted contract can prevent disputes, give chance to claim any change, and ensure that the construction project performs smoothly and successfully. However, the legal aspects of construction contracts are subject to change, so it is essential to engage legal counsel with expertise in construction law to review, to create and enforce these agreements effectively. So, projects can be executed with a greater degree of confidence, safeguarding the interests of all parties involved. This will make the deal a win-win for both parties.

## **Main contracts types:**

Contracts types depends on the project complexity and circumstance. Here are main but it is not limited to only these.

- lump-sum contract
- cost-plus construction contract
- unit price contract
- design and build contract
- incentive construction contract
- integrated project delivery contract
- time and materials contract



# Contract legal aspects and types

## Contracts types definition:

- **Lump-sum contract:** Contractor deliver the project at a pre-agreed price (forfaitaire). It provides simplicity for both owners and contractors, and it's often used for projects **with a clear scope of work**. Lump sum contracts can also be used for **subcontractor agreements**, and in that case, the specialty contractor is agreeing to complete a predetermined portion of the project for a fixed price.
- **Cost-plus construction contract:** it provides reimbursement for all of the *costs* associated with a construction project, *plus* a fee to account for the contractor's overhead and profit. Construction project owners may employ this type of contract when they want to get a project moving quickly or when the scope of work is unclear, making it difficult to estimate the total cost.
- **Unit price contract:** The client pays the contractor on unit basis at agreed upon rates. He pay for the actual quantity of each line item performed by the contractor as measured in the field during construction. Each unit price includes all labor, material, equipment, overhead (frais généraux), and profit attributable to that scope of work. They are best suited for construction work consisting of repetitive tasks that are easily measured.
- **Design and build contract:** It is a contract in which the employer hands over responsibility for both designing and building the project to a contractor. The contractor may choose to carry out the design in-house or he may choose to sub-contract the work to his own design team. Both design and construction cost are addressed simultaneously.



# Contract legal aspects and types

## contracts types definition:

- **Incentive construction contract:** Agreed-upon payment if the project is delivered by a certain milestone; the owner will offer rewards and incentives as extra motivation to hit specific project milestones. These incentives are tied to specific goals, such as **completing a job on time, not going over budget, or achieving a certain level of quality.**
- **Integrated project delivery contract:** A multi-party agreement between design firm, constructor/contact, subcontractor and client; it is a collaborative approach in order to plan, design, construct, and commission a project.
- **Build Operate then Transfer (BOT) contract:** The contractor designs, builds, and manages the construction until the end of the concession period. Then he will transfer it to the property of the owner after getting profits on invested capital, and accepted the risks.



# Contract legal aspects and types

| Contract type                      | Advantages   | Disadvantages   |
|------------------------------------|--|---|
| <b>Lump-sum</b>                    | Presents a digestible, easy-to-plan-for figure to the owner.                           | Aren't a good fit for complicated projects.   |
| <b>Cost-plus construction</b>      | There's seemingly no risk of losing, it focus on quality                               | You must keep tracking of all of your expenses and some times you are limited to "not to exceed" amounts for cost.                  |
| <b>Unit price</b>                  | Suitable for projects that can be easily divided into units.                           | In complexe projects can lead to profit loss if the initial estimates are off-target.   |
| <b>Design and build</b>            | Speed up the process and avoid disputes between the designer and builder               | No competitive bidding phase, the final costs may be higher.  |
| <b>Incentive construction</b>      | Beneficial for controlling costs and timelines. Communication is good.                 | If the terms and conditions are not clear, it can lead to disputes. Contractor and owner should agree on what incentive looks like. |
| <b>Integrated project delivery</b> | It spread the risk and reward fairly across parties.                                   | still relatively new, some design firms and subcontractors may not want to participate  |
| <b>Build Operate Transfer BOT</b>  | the risk associated with such large-investment projects is shared between the parties. | Suitable for large and complexe projects , It can be tedious and time-consuming.  |