

Key Considerations When Entering Into a Construction Contract

Before seeking legal advice on a construction or engineering contract, it is helpful to consider the following points and gather the relevant project information.

-  **The Proposed Contract Structure**
Providing details of the intended procurement route and proposed form of contract helps your solicitor understand how responsibilities and risks are intended to be allocated between the parties.
-  **The Scope of Works and Services**
Clear information about the work each party will undertake, including any exclusions and design responsibilities, helps ensure the contract accurately reflects the agreed scope.
-  **The Commercial Terms**
Details of the contract value, payment arrangements, retention and other financial terms allow the contractual provisions to be reviewed against the commercial agreement between the parties.
-  **Program and Key Dates**
Information about the proposed start date, completion date, milestones and any critical deadlines is important when considering extensions of time, delay damages and programme obligations.
-  **Design Responsibility**
Establishing who is responsible for design and the standard they are expected to meet is essential, particularly where the proposed contract includes fitness for purpose obligations or other enhanced standards.

Risk Allocation and Liability

Any concerns about liability caps, indemnities, exclusions, insurance requirements or responsibility for unforeseen events should be identified so that their commercial impact can be considered.

Payment Procedures

The proposed valuation and payment process should be understood clearly, including payment notices, pay less notices, retention and final account arrangements.

Variations and Change Control

Construction projects frequently change, so it is important that the contract contains practical procedures for instructing, recording and valuing variations.

Existing Project Documentation

Providing relevant tender documents, specifications, appointments, warranties and related agreements helps ensure the construction contract is consistent with the wider contractual structure.

The Stage of the Project

Let your solicitor know whether negotiations are at an early stage, a contract is close to signature or works have already started, as this may affect the advice and steps that should be prioritised.



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