

General Conditions of Contract 2023

In 2021 the Contractual Affairs Subcommittee (CAS), a part of the SAICE Project Management and Construction Division (SAICE PMCD), identified a need to review and update, where necessary, the 2015 edition of the General Conditions of Contract (GCC 2015).

CAS consists of members comprising lawyers, engineers, contract specialists, consultants, and contractors. Willie Claassen, the initiator of earlier versions of the General Conditions is a member of the sub-committee.

GCC 2015 had 10 primary clauses:

1. General
2. Basis of Contract
3. Employer's Agent
4. Contractor's General Obligations
5. Time and Related Matters
6. Payment and Related Matters
7. Quality and Related Matters
8. Risks and Related Matters
9. Termination of Contract
10. Claims and Disputes

3 member working groups were set up to deal with each Clause - from 2-10. Each CAS member was allocated to 3 different groups. Each workgroup in turn, appointed a "champion", with a different champion for each workgroup.

A preliminary discussion within the Committee recommended that we do not stray far from the existing content and layout. Employers, Engineers, and Contractors are familiar and comfortable with the document.

The proposed process to be followed by each workgroup was:

1. Any errors in GCC 2015 were recorded and corrected.
2. SAICE had collected comments, criticisms, proposals, and requests in relation to GCC 2015. These were allocated to the relevant clause and working group.
3. The working group reviewed these inputs and any other source (the latest version of FIDIC, current good practice for example) proposed changes, additions and/or omissions to the current wording and content of GCC 2015.

4. The proposed changes, additions and/or omissions were to be reviewed by a task team. This would consist of at least 3 people, to avoid deadlock. The task team's function was not to produce its own version but to consider and decide on the inputs from each work group.
5. The task team would hold meetings with each work group where the proposals were discussed.
6. A 1st draft of CGG 2022 would be prepared and circulated to all committee members for comment.
7. These comments were then consolidated and a 2nd draft prepared.

The task team was not required afterwards, such was the commitment and dedication within CAS that all changes, additions and/or omissions were presented to and interrogated by all members. Once this exercise was complete, as a sanity check, a clause-by-clause comparison of GCC 2015 vs GCC 2023 was done (and has been made available in that format for comment).

Again, these comparisons were presented to all CAS members, where some primary clauses could be dealt with in a number of engagements.

Particular focus was given to disputes and the dispute resolution process. GCC 2023 includes a provision to communicate a warning in advance. Although not mandatory, amicable settlement facilitation as a means of settling disputes is given prominence.

To give some idea of the rigorous process that was followed, we went through eight iterations of GCC 2023 before the CAS members were satisfied. The CAS members are thanked for their time, commitment and perseverance, all given on an entirely voluntary basis.

The next step in the process is to request commentary from the various stakeholders and interested parties. To this end CAS have prepared 2 documents in pdf format:

a) GCC 2023 Final Draft

b) Comparison GCC 2015 vs GCC 2023 per section (i.e., 10 documents) showing only the significant changes that have been made and the reasons for those changes. (Note: other changes, including making all clauses gender neutral and improvements to readability which have no bearing on the intent of an existing clauses, have been excluded to simplify the comparison for readers)

In order to publish the Conditions of Contract this year we have a deadline of 30 March 2023 for all comments, criticism and suggestions. Please send these to GCC2023@saice.org.za using the template provided to enable CAS to consolidate all inputs received.

There has been criticism of both the updated NEC4 and FIDIC 2017 as being over complicated and unworkable. We believe you will find GCC 2023 to be just the opposite and well suited for its continued use in the construction industry.

We thank the CAS committee for all the work done to date and look forward to your input and the new publication in the near future to better serve our industry and the broader construction sector.

Kind regards,

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