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CONTRACT AND PROCUREMENT MANAGEMENT

This chapter covers an overview of the contract and the contract types practised in the construction industry. Besides that, the advantages and disadvantages of each contract type are discussed in detail, followed by claim management. In signing a contract, different strategies are involved from the construction industry perspective, either enhancing or affecting workability, which has also been considered in this chapter.

2.1 CONTRACT DEFINITION

A contract is defined as *"a mutual written agreement which is enforceable by law"* [31]. Except for the self-execution of a construction project, all construction work is done under a contract. A contract bounds the dealing and actions to arrange the relationship among the parties (two or more parties). Under the contract, which is created with mutual agreement, the parties are bound till the completion of the construction project. The primary elements of a contract are stated below:

1. Mutual Agreement and Genuine Intention
   In a contract, mutual consent is essential and usually conveyed by the parties, where one makes the offer and others accept. Furthermore, a contract is enforceable by law; therefore, the parties' intention must be genuine to take on responsibilities as per the contract.

2. Offer and Acceptance
   The term mutual agreement is the offer and acceptance identical to the substance. While accepting the offer, no change can be brought and should be accepted as it is. If required, the offer should be refused, and a notice may be given with a different offer. Before the acceptance, an offer can be withdrawn at any time. The mutual

agreement must be on free consent and without being influenced, which is the actual meeting of the minds between the parties. If there is no mutual agreement, the contract may be invalid. The offer cannot be withdrawn upon acceptance as it is converted into a contract. Upon acceptance, the owner sets a bid bond as a guarantee by the bidder to perform the work as per the contract; otherwise, the bidder will pay for the damages.

3. Capacity to Contract
   It refers to the competency to perfume the work agreed in the contract. A person making a contract must be sane, age of majority, and is not under any legal restraint.

4. Consideration in a Contract
   It is the value (in the eyes of the law) given by one party to the other party in exchange for something, usually money. An agreement with mutual consideration for the work is the contract. As per the contract law, consideration can be a value where the law is not related to its amount. It is a matter of bargain and agreement between two parties.

5. Lawful Object of a Contract
   The contract is applied to legal work only and cannot be enforced for an illicit purpose. Usually, all the construction work should be done according to the roles and regulations imposed by the authorities. This practise is carried out to avoid the contract agreement and results in illegal construction. For example, the contractor should not agree to extend the construction work out of the owner-owned land until the authorities get the necessary approvals.

6. Contract Time
   The time limit of a contract is with the schedule of a construction project. Most of the time, a project gets delayed; wherein that case, the contract may be extended with mutual consent. Otherwise, the owner has the right to end the contract and continue the work with another contractor. However, the contractor has the right to appeal this dispute.

2.2 CONTRACT STRATEGIES IN THE CONSTRUCTION INDUSTRY

In the initial phase of a construction project, upon selecting a project manager, the hurdle that the owner faces is selecting a suitable contract strategy that meets the project objectives. Contract strategy refers to selecting contractual and organisational policies that will be required for successful project execution. Various assessment choices are available to develop a contract strategy to fulfil the project's needs. The contract strategy in the construction industry is important as a huge amount of capital is involved in the construction projects and any uncertainty in the agreement can lead to major disputes. The selection of the right