



**5 - 8 DECEMBER 2022**  
DUBAI WORLD TRADE CENTRE

# Construction Disputes – How to prepare for a successful resolution

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# REASONS FOR DISPUTES

Listed in the latest edition of Gulf Construction Magazine

delays

gulfconstructiononline.com

GCC top causes of claims and disputes	Rank
Change in scope	1
Design information was issued late	2
Contract interpretation issues	3
Design was incomplete	4
Contract management and/or administration failure	5
Approvals were late	6
Access to site/workface was restricted and/or late	7
Cash flow and payment issues	8
Poor management of sub-contractor/supplier and/or their interfaces	9
Design was incorrect	10

Table 2: Claims and disputes in the GCC.

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# Understand your Contract

## KNOW YOUR RESPONSIBILITIES

Every contract is different, but you it would be helpful to answer some of the following questions:

- What is the scope?
- Who is responsible for the design?
- How do you get approvals?
- What does access mean?
- Who is responsible for managing interfaces?
- What assistance is the Engineer/Employer required to provide?
- What documents are required for payment application?
- When does payment need to be made?



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# Understand your Contract

## DISPUTE RESOLUTION MECHANISM



Dispute resolution mechanism in your Contract:

- The first step is to give notice. This must do within **X** days of becoming aware of the event.
- The notice is important because:
  - everyone involved becomes aware that there is an event or circumstance where additional time or cost may be due to the Contractor
  - mitigation measures may be taken to reduce effect of the event
  - proper records can then be kept
- if the event or circumstance turns out to be of insignificant, then it is not necessary to issue a claim
- If the event or circumstance turns out to be significant then claims (interim and final) need to be submitted and the claim can be tested

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# Understand your Contract

## BEWARE OF TIME BARS



### Notice (FIDIC)

“If the Contractor considers himself to be entitled to an extension of the Time for Completion and/or any additional payments, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as possible, and not later than 28 days after the Contractor became aware or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim.”

### Detailed claim/final claim (bespoke)

“If the Contractor fails to give further written interim particulars and the final claim duly completed and signed including all the particulars required within the times stated in Sub-Clause [x], then the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment or Cost, the Contractor shall be deemed to have waived its entitlement to make such claim, and the Employer shall be discharged from all liability in connection with the claim.”

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# Keep records

- Baseline programme and updates
- Progress Reports (Weekly / Bi-Weekly / Monthly)
- General Arrangement Drawings Illustrating Scope of Works, Phases and locations
- Meeting minutes
- Contemporaneous letters
- Details supporting the costs for any new rates used to value variations, including: - Invoices, POs and - subcontractors' / suppliers Final Payment Certificates identifying the amounts claimed
- Details supporting the quantities used to value variations including any of the following:
  - Marked-up drawings,
  - Materials delivery sheets,
  - Signed-off requests for inspections, etc.
  - Any details that would support the quantities claimed.
- Inspections and test



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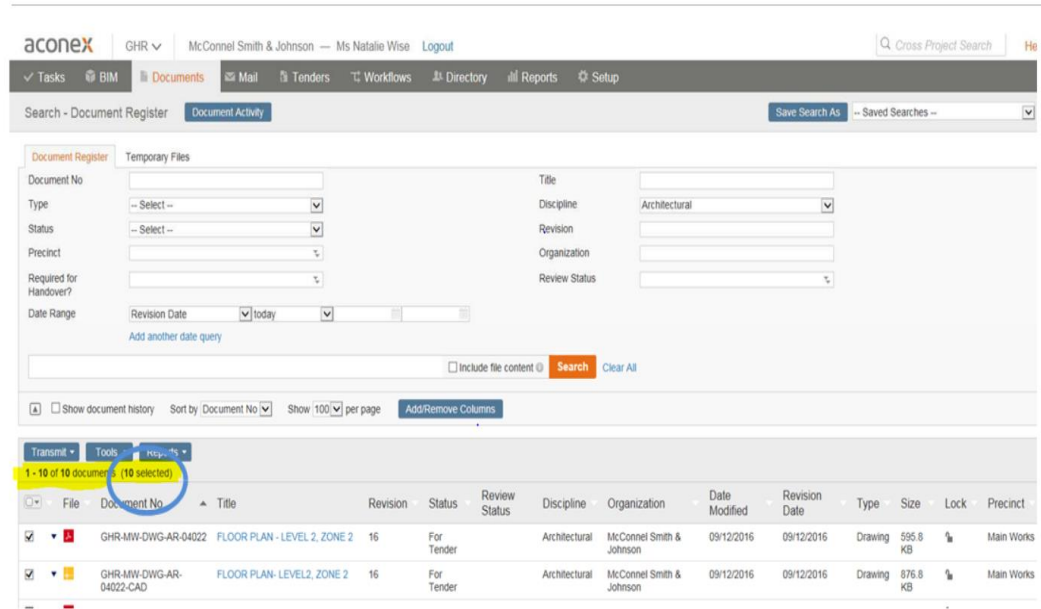
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# Create document control culture

“Document control in construction projects encompasses the creation, management, modification, issuance, and accessibility of innumerable construction documents. Documents such as contracts, plans, manuals, and budget, equipment, and design details are made and handled with the utmost care by construction companies.”

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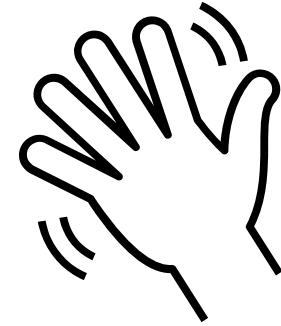
The screenshot shows the Aconex Document Register interface. The top navigation bar includes the Aconex logo, user information (GHR, McConnell Smith & Johnson, Ms Natalie Wise, Logout), and a search bar. Below the navigation bar, there are tabs for Tasks, BIM, Documents, Mail, Tenders, Workflows, Directory, Reports, and Setup. The main section is titled 'Search - Document Register' and includes a 'Document Activity' button and a 'Save Search As' dropdown. The search filters are divided into two columns: Document No, Type, Status, Precinct, Required for Handover?, and Date Range on the left; and Title, Discipline, Revision, Organization, and Review Status on the right. A 'Search' button is located at the bottom right of the filter section. Below the filters, there is a table with columns for File, Document No, Title, Revision, Status, Review Status, Discipline, Organization, Date Modified, Revision Date, Type, Size, Lock, and Precinct. The table shows two documents selected, both titled 'FLOOR PLAN- LEVEL 2, ZONE 2'. The first document is 'GHR-MW-DWG-AR-04022' and the second is 'GHR-MW-DWG-AR-04022-CAD'. Both documents are in 'For Tender' status and are 'Architectural' in discipline. The table also shows the date modified and revision date for each document, as well as the type (Drawing) and size (595.8 KB and 876.8 KB respectively).

File	Document No	Title	Revision	Status	Review Status	Discipline	Organization	Date Modified	Revision Date	Type	Size	Lock	Precinct
<input checked="" type="checkbox"/>	GHR-MW-DWG-AR-04022	FLOOR PLAN- LEVEL 2, ZONE 2	16	For Tender		Architectural	McConnell Smith & Johnson	09/12/2016	09/12/2016	Drawing	595.8 KB		Main Works
<input checked="" type="checkbox"/>	GHR-MW-DWG-AR-04022-CAD	FLOOR PLAN- LEVEL 2, ZONE 2	16	For Tender		Architectural	McConnell Smith & Johnson	09/12/2016	09/12/2016	Drawing	876.8 KB		Main Works

# Retain knowledge

Construction is a project based industry and employees often change jobs.

- Develop a knowledge transfer strategy
- Keep notes from meetings
- Keep email inboxes and create project inbox
- Keep contact details of leavers
- Discuss assistance with disputes after employees leave



# USE THE RIGHT DISPUTE RESOLUTION MECHANISM



- Mediation
- Negotiation
- Dispute adjudication board
- Litigation
- Expert determination
- Arbitration

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# Questions?



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