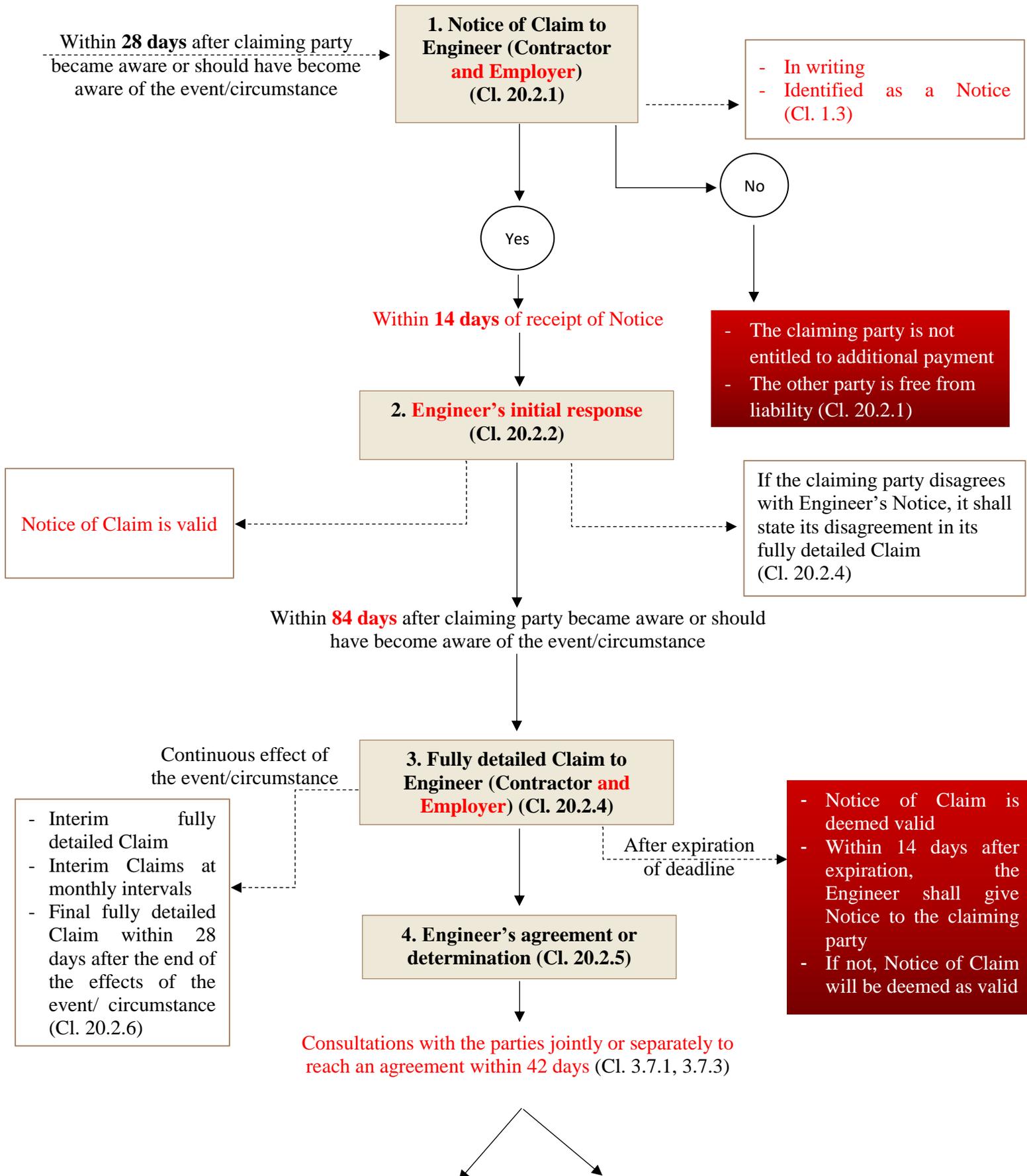


## CLAIMS PROCEDURE AND DISPUTE RESOLUTION UNDER THE 2017 FIDIC CONDITIONS OF CONTRACT



No agreement of the parties or the parties advise Engineer that no agreement will be reached

Agreement of the parties

Notice of the agreement from Engineer (Cl. 3.7.1, 3.7.3)

- Engineer shall make a fair determination on the matter (Cl. 3.7.2)
- Notice by Engineer within 42 days (Cl. 3.7.2, 3.7.3)

Within 28 days after Engineer's determination

Engineer's determination is *final and binding*

If no NOD is given within the deadline

**5. Notice of dissatisfaction (NOD) to Engineer's determination (Cl. 3.7.5)**

If the NOD refers only to certain parts of the determination

If a party fails to comply with the Engineer's determination or the agreement achieved under Cl. 3.7.1, the other party can refer this failure directly to arbitration and seek **enforcement by summary or expedited procedure** (Cl. 3.7.5)

- These parts along with any other affected by them are severable from the determination
- The remaining parts are considered final and binding (Cl. 3.7.5)

**6. Constitution of the DAAB (Cl. 21.1)**

Appointment

Failure to agree on member(s) of the DAAB

- 1 or 3 qualified persons (default is 3)
- **Appointment within 28 days of receipt of the Letter of Acceptance by Contractor**
- **All DAABs are standing**

The appointing entity shall make the appointment (Cl. 21.2)

- At the request of one of the parties
- After consultation with both parties

**7. Avoidance of Disputes (Cl. 21.3)**

Not binding on the parties or the DAAB

- Joint request by the parties to the DAAB to provide assistance for the resolution of any disagreement, or
- The DAAB on its own motion can invite the parties to make such a request
- The request can take place at any time except during the Engineer's deliberations for the Engineer's determination

Reference within **42 days** of giving or receiving the NOD (Cl. 3.7.5) regarding the Engineer's determination (Cl. 21.4.1)

After that 42-day period, the NOD is deemed invalid

Any party can refer a dispute to the DAAB irrespective of whether discussions took place under Cl. 21.3

### 8. DAAB's Decision (Cl. 21.4)

Within **84 days** after receiving the reference (Cl. 21.4.3)

- Reasoned decision
- Binding on the parties
- **Prompt compliance regardless of a NOD with respect to the decision**

If no decision has been given within the 84-day period, either party may give NOD within the 28-day deadline after expiration of the DAAB's deadline

After that 28-day period if no NOD has been given, the decision becomes *final* and binding

Within 28 days of the receipt of the decision

### 9. Dissatisfaction with DAAB's decision (NOD) (Cl. 21.4.4)

Mandatory settlement attempts

### 10. Amicable Settlement (Cl. 21.5)

Not possible without NOD

**28 days** after NOD

### 11. Arbitration (Cl. 21.6)

In relation to the DAAB's decision that has not become final and binding (after NOD and amicable settlement attempts)

If a party fails to comply with the DAAB's decision

Direct commencement of arbitration

- No DAAB decision (Cl. 21.4) or Amicable settlement (Cl. 21.5)
- **Summary or expedited procedure**
- **Interim or provisional measure or an award to order enforcement of DAAB decision which has not been complied with (Cl. 21.7)**

Direct reference to arbitration

No DAAB in place:

- No DAAB decision
- No amicable settlement (Cl. 21.8)

- ICC Rules  
- **1 or 3** arbitrators

# NOTES