



## HUGO FONSECA

FOUNDER AND MANAGING DIRECTOR  
HEAD OF CLAIMS, DISPUTE AVOIDANCE AND  
RESOLUTION

Chartered Civil Engineer, managed projects up to USD \$1 billion in value. Contract Expert with experience in preparation and assessment of complex claims. Independent Expert Determinations, Mediation, and Facilitator in dispute avoidance stages.

Expert Witness in Dispute Boards and Arbitrations, including preparation of independent opinions, reports and testimony on contractual entitlement, extensions of time, valuation of variations and assessment of direct loss and/or expense.

### SUMMARY

Founder and Managing Director of **ADEPT**, Hugo is on its third decade in the engineering and construction industry, during which he led teams and successfully delivered multi-disciplinary projects from inception and planning, construction to final handover and post contract management.

His international career started in 2008 in Romania, and for 10 years, he held permanent positions in Eastern Europe, the Middle East, and Southeast Asia.

Throughout his diverse career, Hugo managed a wide range of construction and engineering projects, from coastal and marine works to large scale developments, complex infrastructures schemes, coastal and marine projects, residential and commercial building complexes, and hospitality projects including high rises.

More recently, further to his dispute resolution roles, Hugo has been appointed to steer projects back on track, implement adequate project and contract management processes or to reset relationships between parties, facilitating solutions and avoid disputes.

Hugo approaches dispute mitigation and resolution with in-depth technical knowledge of construction, the parties' contractual obligations and risks, different types of schedules, as well as his hands-on experience using different methodologies to evaluate delay and disruption, valuation of variations, and evaluation and quantification of damages.

### EDUCATION

MSc in Civil Engineering, Construction, FEUP, Portugal

LLM in Construction Law and Arbitration with distinction, Robert Gordon University, Scotland

BSc in Civil Engineering, Structural Engineering, IST, Portugal

### REGIONAL EXPERIENCE

North Africa

Europe

Middle East

Southeast Asia

Central Asia

### LANGUAGES

Portuguese

English

French (intermediate)

Spanish (intermediate)

### CONTRACTS EXPERIENCE

FIDIC 1987/1999/2017 suites

Oman Standard Conditions

CCP (Portugal)

Various Ad-hoc Contract forms

## CAREER AND EXPERIENCE

Hugo completed his Civil Engineering (structural engineering) degree in 1998 in Portugal's most prestigious engineering university, and since then, has been continuously involved in engineering and construction projects.

Following ten successful years in Portugal, managing projects from building complexes to shopping centres, Hugo accepted an invitation in 2008 to become the Contracts and Technical Manager of the Romanian branch of a leading Portuguese contractor, where he supported five projects under FIDIC Red Book 1999. In late 2009, the same contractor invited Hugo to join their Middle East branch.

In the years since, Hugo was involved in numerous and significant projects in several regions, as the contractor's project director of a wastewater networks project in Muscat, as the design and supervision consultant's client-facing lead of a greenfield Naval Base in the south of Oman, as the design consultant's representative on the pumping stations FEED design of one of the world's largest flood control schemes for the Philippines, as projects director of several project management teams in Vietnam, and as the contractor's JV representative/project director on the refurbishment of a 100 year-old classified historical heritage market in Porto.

Hugo has experience with various types of procurement and the requirements of several international funding agencies. His permanent roles with contractors, employers and consultants have given him a breadth of experience which allows him to converse with all sides, understanding their issues and risks.

Since 2018, Hugo works as an independent mediator and conciliator, as an expert for contractors, employers, and consultants, preparing claims or supporting defence from claims, and presenting testimony as an independent expert witness in arbitration and dispute board proceedings. Hugo is frequently invited to deliver presentations on contract administration and on the technical aspects of claims.

Regarding quantum, Hugo has experience in the evaluation and quantification of damages associated with delay and disruption costs, impacts of unresolved change orders, disputed specifications, loss of productivity, project management performance problems, damages incurred by employers due to defective work by contractors, liquidated damages, and damages due to breach of professional liability obligations by consultants.

Hugo also has considerable experience in the preparation, review, and analysis of different types of schedules and delay analysis methodologies, with a particular emphasis on assessments in accordance with the SCL Delay and Disruption Protocol, including concurrent delay analysis and float mapping.

## PANEL LISTINGS

FIDIC President's List of Approved  
Dispute Adjudicators (2022)

CPAL Panel list (OAL Portuguese  
Mediation and DB list) (2021)

## MEMBERSHIPS AND CERTIFICATIONS

Dispute Resolution Board Foundation  
(2022)

Society of Construction Law (2022)

Chartered Senior Engineer,  
Portuguese Engineers Order, OE (2020)

Member Chartered Institute of  
Arbitrators (MCIArb) UK (2016)

Project Management Professional  
(PMP), Project Management Institute,  
USA (2012)

Chartered Engineer, Portuguese  
Engineers Order, OE (2000)

## SERVICES

Dispute Avoidance/Adjudication Board  
Conciliation

Arbitration

Expert witness (quantum and delay)

Independent expert

Mediation

Technical expert

## SECTORS

Coastal and Marine including Ports

Urban Infrastructures

Transportation

Major Infrastructures

Shopping Centres

Historical Buildings

Multi-Building developments and  
High-rise

Hospitality

Oil & Gas support facilities

## SELECTION OF ASSIGNMENTS

### MAJOR INFRASTRUCTURES

#### 3-year Railway Maintenance Contract, Portugal (2022)

Analysis and preparation of report of contractor's claims regarding price adjustment due to major change in circumstances / hardship, assignment on behalf of employer.

#### Power Plant Project, Cape Verde, USD \$22 million (2022)

Review of contractor's entitlement to claim for extension of time and preparation of independent report to be presented in Arbitration proceedings (ad-hoc based on FIDIC Yellow Book 1999).

#### ADB financed Road Project, Georgia, USD \$27 million (2022)

Review of Time Impact Analysis and Delay Analysis report prepared by contractor for presentation in Dispute Board proceedings on behalf of the contractor (FIDIC Pink Book 2010).

#### 5-year Railway Maintenance Contract, Portugal, USD \$150 million (2022)

Risk assessment report and recommendations regarding the Employer's Requirements and contractual operation of the particular conditions to be tendered in 2023.

#### ADB financed Road Project, Armenia, USD \$61 million (2021)

Preparation of As-planned vs As-built delays analysis, including analysis of concurrent delays for presentation in Dispute Board proceedings on behalf of the contractor (FIDIC Pink Book 2010).

#### ADB financed Road Project, Tajikistan, USD \$65 million (2020/2021)

Preparation of Delay Analysis report for Dispute Board, witness at Dispute Board hearing. Assessment and Preparation of Concurrent Delay Analysis Report for Dispute Board on behalf of the contractor (FIDIC Pink Book 2010).

#### Water Transmissions and Distribution Networks, Oman (2018)

Retrospective assessment and preparation of expert technical report on construction supervision consultant's professional liability on behalf of the consultant, employer's claim for breach of professional duty. (Based on FIDIC White Book 1999).

#### Major Pumped Storage Power Plant, Egypt, USD \$2.7 billion (2018)

Risk assessment and recommendations regarding the Ministry's ad-hoc general and particular conditions to govern the EPC+F contract between the Ministry of Electricity and the contractor, including recommendations. Presentation and participation in workshops in Cairo for discussions on contractual impact of Employer's Requirements with the Ministry's legal and technical teams, included presenting/comparing risks of the Ministry's ad-hoc form with the FIDIC Yellow and Silver Books 2017.

### URBAN INFRASTRUCTURES

#### Muscat Wastewater Scheme Project, Oman (2013-2015)

Contractor's representative in arbitration proceedings, supported quantum and legal consultants' preparation of total claim, provided testimony at arbitration hearings (Oman Conditions based on FIDIC 4th ed. 1987).

#### Indaquia, Sewerage Network, Portugal (2009)

Preparation of Global/Total Cost Claim for Contract Financial Balance Recovery.

#### Drinking Water and Sewerage Network Rehabilitation and Extension Works, Romania (2008)

Development Contractor's project contract management tools and controls, support to project manager on development of contractual program, preparation of extension of time and disruption claims (FIDIC Red Book 1999 adapted to local law).

## MARINE WORKS

### Major dredging, reclamation and blockwork quay wall project, UAE (2021)

Preparation of independent opinion on several contractor variations and claims. Mediation between contractor and employer. Reasoned non-binding Expert Determination when agreement was not reached with mediation.

### Major dredging and reclamation project, UAE (2020 – 2021)

Preparation of independent opinion on behalf of employer of several contractor claims in pre-arbitration stage including concurrency analysis of contractor's extension of time claim (based on FIDIC Red Book 1999).

### Major dredging and coastal protection project, UAE (2019)

Preparation of global claim on behalf of Contractor, extension of time and costs including disruption claim due to delayed payments (based on FIDIC Red Book 1999).

### Dubai Harbour Project, UAE (2017-2018)

Middle East's largest marina. Assessment of contractor's entitlement assessments of very complex project changes and, when agreement could not be reached, preparation of Engineer's Determinations.

### Sultan Qaboos Naval Base, Oman, USD \$1 billion (2013 – 2017)

Consultant's lead for this greenfield defence megaproject. Coordinated detail design and procurement, including the preparation of international pre-qualification based on the World Bank standard for the marine, quay walls on-quay utilities and operational buildings package. 11 of the top 100 contractors of the world applied to prequalify. Lead meetings with applicants and prepared the formal prequalification evaluation. Review EPC+ Finance contract, review of EPC Employer's Requirements and support to employer for negotiation.

## DEVELOPMENTS AND BUILDINGS

### Luxury Resort Development, Algarve, Portugal (2022)

Preparation of independent reconstructed Time Impact delay analysis to present in arbitration proceedings.

### Rail Operations Building, Portugal, USD \$2 million (2022)

Analysis of contractor's claims regarding price adjustment due to major change in circumstances / hardship.

### Luxury Hotel Development, Morocco (2020 – 2021)

Contract Manager on behalf of employer, preparation of employer's claims and responses to contractor claims in pre-dispute stage.

### Mercado do Bolhao Restoration, Portugal, USD \$30 million (2019 – 2022)

Contractor's Project Director. Preparation of extension of time claim, contractual Interpretation regarding methods of measurement, change order pricing and evaluations, claims pricing and evaluations, material and labour cost adjustment evaluations. preparation of expert opinions and provide evidence in conciliation meetings (pre-arbitration). Contractor's Representative in Arbitration proceedings.

### Construction of 184 Town Houses, Morocco (2009)

Preparation of extension of time claim due to suspension of works by employer including direct and indirect cost, loss of profit, third party costs, demobilization and remobilization costs on behalf of contractor (contract based on FIDIC Red Book 1999).

## OIL & GAS SUPPORT FACILITIES AND INFRASTRUCTURES

### Artificial Islands project, UAE (2017)

Preparation of consultant's variations and claims, contractual entitlement, and report on risks and opportunities and costs in case of dispute settlement through arbitration to be used for dispute avoidance (contract based on FIDIC White Book 1999).

# SELECTION OF PROJECTS ON CONTRACTOR AND CONSULTANT ROLES

## MAJOR INFRASTRUCTURES

### Laguna Lakeshore Expressway-Dike Project (FEED design), Laguna de Bay, Philippines, USD \$2 billion (2015)

Project coordinator of the management of flood control facilities concept design team, working with the EPC contractor technical and PPP tender teams for the construction of a 47-kilometer flood control dike on top of which will be a six-lane expressway, on an off-shore alignment, including interchanges, bridges, floodgates, and major pumping facilities (total capacity over 2000 m<sup>3</sup>/sec).

## URBAN INFRASTRUCTURES

### Muscat Wastewater Scheme Project, Oman, USD \$85 million (2009-2013)

Contractor's representative on the construction of over 200km of sewage, irrigation, and FO networks in a dense urban area of Muscat. Sewage connection of existing 4300 plots to the network. Over 4 km of 1200mm tunnelling by TBM, sinking caisson and sheet piling launching pits below the water table, in sand strata.

## DEVELOPMENTS AND MARINE WORKS

### Sultan Qaboos Naval Base, Oman, USD \$1 billion (2013-2017)

Invited in February 2013 to lead the Consultancy for the Project Management, Design and Supervision of this greenfield Megaproject for the development of a new military naval base for the Royal Navy of Oman is now being built in the Base plot which is over 7 km<sup>2</sup>. The Project includes the harbour, more than 40 types of buildings totaling over 110 individual buildings and 14 types of infrastructures, including on quay utilities. Marine design included provisions for underwater rock blasting and breakwaters foundation below -30m CD.

## BUILDINGS

### Restoration Mercado do Bolhão, Porto, Portugal, USD \$30 million (2019-2022)

In April 2019 I was invited to lead the Contractor's team of the restoration of this unique historical building, one of Porto's landmarks. I joined the project in May 2019, led the resolution of contractual disputes which were blocking the project's development.

### Panorama Building, Nha Trang, Vietnam (2017)

Project director of this 41 levels tower, including 6 floors podium with Commercial area and 33 stories serviced apartments tower. Total GFA 93,000 m<sup>2</sup>. Fast track detail design development while construction was on-going.

### Ramses Hilton Refurbishment, Egypt, Cairo, USD \$70 million (2016)

Project director for the Property Condition Survey and Cost Estimate for the refurbishment of the 700+ keys hotel, public areas, F&B and BoH. Value Engineering and presentations to Owner and Hilton International representatives.

### Alegro Shopping Centre, Lisbon, Portugal, USD \$30 million (2007)

Project Manager for the construction of the shopping centre and accesses. This project demanded an acute schedule and stakeholder management. The construction took place while a 10000m<sup>2</sup> supermarket, which continued trading daily during construction, became part of the shopping centre building.

## OIL & GAS SUPPORT FACILITIES

### Offshore Dalma Fields Development Accommodation, Abu Dhabi, UAE, USD \$50 million (2015-2016)

Project Director for the initial design of the Refurbishment and Expansion of accommodation, multi services buildings and infrastructures to serve 700+ population including assessment of H<sub>2</sub>S permanent shelters. Support to Constructability Workshops. Presentations to the Client and End Users.

## SELECTION OF PRESENTATIONS AND WORKSHOPS

### ON FIDIC CONTRACTS

#### **Practical Workshop on FIDIC 2017 suite operation (2022)**

2-day ad-hoc workshop to an employer, user of FIDIC contracts in projects financed by MDBs, covering the various project stages, rights, and obligations of the parties under FIDIC 2017 suite, including the discussion of examples.

#### **Invited to Panel on International Construction Contracts, 1st Portuguese Construction Law Conference (2022)**

Presented and discussed several examples of claims under different FIDIC forms, underlying facts, how the contract was interpreted, and the claims resolved.

#### **MSc dissertation on “Management of Changes in Large Construction Projects” ([link](#)) (2018)**

Dissertation including comments on the improvements introduced by FIDIC Red Book 2017’s change management process, comparing it with other contract forms, presenting case studies and lessons learned from his career.

#### **Variations Under FIDIC Red Book (2016)**

Workshops delivered to members of project management teams that perform the FIDIC Engineer role, explaining the causes and process to be followed during construction regarding variations to avoid later claims.

#### **Contractual Management under FIDIC Red Book 1999, Notices and Claims (2009)**

Training delivered to contractor’s project managers on basic awareness of claim opportunities and basic contractual notice requirements to be fulfilled.

#### **Contract Management Document System (2008)**

Developed a spreadsheet-based system, which automatized the preparation, issuing, log and follow up of contractual requests and notices under FIDIC Red Book 1999 and trained contractor project managers on using it.

### ON TECHNICAL AND CONTRACTUAL ASPECTS, OR UNDER OTHER CONTRACT FORMS

#### **Major Change of Circumstances (hardship) claims and price adjustment under the 2022 law (DL 36/2022) applicable to Portuguese Administrative contract conditions (2022)**

Invited to present workshops and webinars with legal counsels. Workshops and webinars were delivered to contractors and employers (separate sessions). During 2022, a total of 18 sessions were delivered, both online and presential. Over 350 participants.

#### **Fundamental Principles and Claims under Portuguese Administrative contract conditions (2020)**

Workshops delivered to contractor’s project managers to increase their awareness on contract management, risks and opportunities. Presented case studies of how different contractual issues were acted upon and resolved in the Mercado do Bolhão project.

#### **Risks and Contractual Implications of approval of Construction and Shop Drawings (2015)**

Workshop to construction supervision project managers and resident engineers focused on the contractual risks related to construction and shop drawing approvals, which may lead to design responsibility and/or breaches of a consultant’s contract or professional liability.

#### **Project Reporting and Forecasting – Earned Value Management (EVM) (2014)**

Presentation on project reporting and forecasting process and outputs, including EVM methodologies used, methods to develop the programme considering the intention to report using EVM, KPI’s, update criteria, impact of events on EVM estimates at completion regarding time, cost, and cash

#### **Contractual Programme – Best Practices and Contractual Implications (2013)**

Workshop for construction supervision project managers and resident engineers focused on what should be part of a contractual programme, including calendars, mobilization stage activities, resources, floats on non-critical path activities, as built programs, logical connections and schedule health checks, update data and on the importance of contemporaneous updates to establish entitlement to extension of time.