



# DRINKWATER ASSOCIATES LTD

MECHANICAL - ELECTRICAL - PUBLIC HEALTH - CONSTRUCTION

Drinkwater Associates Ltd  
Unit 8, Apollo Office Court  
Radclive Road  
Gawcott  
Bucks. MK18 4DF

Tel: 01280-822257  
Fax: 01280-822258  
[www.drinkwaterassociates.com](http://www.drinkwaterassociates.com)

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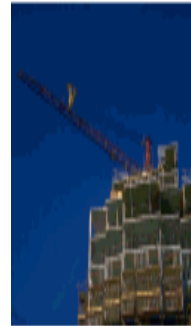
## INTRODUCTION

As Construction Project Manager and Contractual Dispute Consultants, we have extensive experience in dealing with companies that cover a very broad spectrum. There are few businesses to which we are unable to apply the same or similar business practices as those we have used within the construction field.

For example:

- ◆ Manufacturing
- ◆ Process
- ◆ Pharmaceuticals and Research
- ◆ Power, Water and Electricity
- ◆ Oil and Gas
- ◆ Service and Maintenance

With any construction project, whether large or small, as Quantity Surveyors we have to deal with and resolve contractual disputes and final accounts for all types of suppliers, sub-contractors and consultants. This generally involves the **preparation of contractual claims, drafting of contracts, settlement agreements** and, in certain cases, **novating contracts**. We also deal with **dispute resolution** which includes **mediation, arbitration and litigation** in order to recover debts or the provision of a defence where a party has defaulted under the contract.



The type of projects with which we have been involved is again wide and varied ranging from petrochemicals to hospitals, prisons, offices, hotels, flats, houses, power and water, laboratories, food and other process/manufacturing industries.

Understanding different businesses and their contractual relationship is our business and we would therefore like to put this experience at your disposal in order to assist with any issues related to your works.





We are able to provide assistance with the following:

1. Project management.
2. Contractual claims and dispute resolution.
3. Quantity surveying and estimating.
4. Evaluation of liabilities.
5. Checking work in progress cost and value.
6. Collection of outstanding cash balances & Final Accounts.
7. Management of remedial works to secure release of retention monies.
8. Stock-taking and disposal of assets.
9. Company / sub-contractor receivership or winding up orders.
10. Company acquisitions.
11. Expert witness reports.



## SUMMARY OF OUR SERVICES

### PROJECT MANAGEMENT

With in-house resources we offer a complete project management service to a broad international cross-section of business sectors, covering everything from feasibility studies, to procurement, planning and implementation.

Close communication is at the heart of the process, with integrated services, digital networks and modem link to provide clients with a fast and reliable service.

We have a team of project management professionals, each with expertise and experience in their own particular field. For estimating, surveying and project management we deliver a quality response from concept to completion. Having the ability to manage the entire project in-house ensures the customer receives maximum value for money.

We pursue a close working relationship with clients to gain a full understanding of their needs and are able to offer innovative project management solutions.

### CONTRACTUAL CLAIMS AND DISPUTE RESOLUTION

Within the Construction industry companies are continually coming up against contractual problems, the causes of which seem to occur with repetitive frequency and which are directly linked to a combination of incorrect recording and lack of cash flow. To the inexperienced the construction project seems a daunting prospect to unravel and resolve as there are many diverse ways by which cash flow can be frustrated.

These problems are generally caused by:

- ◆ Late and inadequate applications of payment.
- ◆ Additional moneys not being requested at the right time.
- ◆ Defaulting on contractual obligations which encourages counterclaims.
- ◆ Contracts being prolonged / disrupted with associated delays in recovering additional expenditure.
- ◆ Not providing sufficient details relative to Set Off (**Act 1996**), applicable to sub-contractors' accounts.

As Contractual Cost and Dispute Consultants we have many years of experience in dealing with delay tactics that are used to frustrate and delay the recovery of cash. This experience is particularly relevant when considering applications in relation to the **Housing Grants, Construction and Regeneration Act 1996**, should you be required to pursue this as plaintiff or defendant.

Drinkwater Associates Ltd can assist with:

- ◆ Preparing all financial costings and/or claims relative to Loss and Expense, acceleration or to support Set Off deductions.
- ◆ Preparation, submission and, if required, final agreement of any request for extension to the contract period, together with any subsequent claim for direct Loss and Expense arising from such extensions when granted.
- ◆ Producing contractual correspondence to support entitlement to an Extension of Time.
- ◆ Preparing causation documentation to support or defend entitlement to an Extension of Time.
- ◆ Preparation of Disruption and Acceleration claims prior to completion of project.
- ◆ Preparation of plaintiff / defendant documentation in order to pursue a claim within the Housing Grants, Construction and Regeneration Act 1996.
- ◆ Preparation of Engineering Reports in order to establish compliance with client's design briefs where claims for non-compliance are pursued.
- ◆ Preparing Expert Witness Reports which provide independent evidence to support actions or establish liability as necessary relative to failure to contract correctly.
- ◆ Management of Dispute Avoidance and non-contentious claim settlement.
- ◆ Management of the Adjudication Process either as Claimant or Defendant.
- ◆ Preparation of delay demonstration and Liquidated and Ascertained Damages.

## QUANTITY SURVEYING AND ESTIMATING

A full quantity surveying service can be provided, covering the whole pre and post contract field, including:

- ◆ Cost analysis.
- ◆ Preparation of Bills of Quantity.
- ◆ Preparation of Agreement of Sub-Contract documentation.
- ◆ All final accounting operations including interim applications of payment.
- ◆ Preparation and agreement of sub-contractor's accounts.

## EVALUATION OF LIABILITIES

Drinkwater Associates Ltd can assist with:

- ◆ Reviewing correspondence applicable to each project to ascertain whether a contractual problem has occurred.
- ◆ Where the problem is considered to be a failure on the part of the designer (particularly relevant to a Design and Build Contract), we will ascertain whether or not the designer has complied with the client's brief and, if required, evaluate this failure into loss of recovery.
- ◆ Establishing whether these problems are client/sub-contractor initiated or as a result of the company defaulting. Either way an attacking claim or, in the event of the company defaulting a defensive claim, should be considered.
- ◆ If it is found that the company has rights regarding an application for loss and expense and damages, then a claim for recovery can be prepared.



The above will enable us to prepare a counter-claim where others are stating that the company has defaulted. This therefore provides a defence against 'Set Off'. Alternatively an attacking claim enables the company to maximise recovery due to the default of others.

## CHECKING WORK IN PROGRESS COST AND VALUE

Drinkwater Associates Ltd can:

- ◆ Attend site / company's offices to review, investigate and analyse each specific contracted works project.
- ◆ Identify and prepare a project status report applicable to each project. This report will give a brief overview of the project(s) and a strategy relating to progressing each in order to maximise recovery.
- ◆ Ascertain whether the contractor's route to recovery is correct where we analyse these variations to establish entitlement and, more importantly, check that the variations have been correctly valued in accordance with the original tender parameters.
- ◆ During these investigations we can also analyse the current work in progress with a view to highlighting what stage the contract is currently at, whether there is sufficient money to complete the works if incomplete, and whether or not the contract is profitable.

The above is carried out in close co-operation with the project engineers with our reports and recommendations being formed based upon the current situation.

## COLLECTION OF OUTSTANDING CASH BALANCES AND FINAL ACCOUNTS

Drinkwater Associates Ltd will value works, cost and price variations, prepare and submit final accounts.

Many projects are left incomplete. There may be additional works to price up and there may be original contract moneys still to apply for. In our experience, many clients/contractors prepare their own assessment of how much the sub-contractor is entitled to and present this as a 'fait accompli'.

However, we are able to analyse the contract documentation, establish the true extent of variation and form this into a final account. This account can then be submitted to substantiate entitlement with full back up costings provided. This is particularly important when considering whether to press the matter to adjudication relevant to the **Housing Grants, Construction and Regeneration Act 1996**.

When the above parameters are established, we are then able to commence negotiations leading to eventual settlement. The same will apply to the outstanding release of retention moneys. We will establish the date at which these fall due and apply for their release.

## **MANAGEMENT OF REMEDIAL WORKS TO SECURE RELEASE OF RETENTION MONEYS**

When considering the liabilities on a contract there may be a situation where remedial works are required in order to complete the overall contract. These remedial works may be minor or, as on larger projects, could result in considerable work being necessary.

We are able to ascertain the true extent of these remedial works, value them and then negotiate with the overall client to enable the release of any outstanding moneys, contract or retentions.



## **STOCKTAKING AND DISPOSAL OF ASSETS**

Drinkwater Associates Ltd will:

- ♦ Attend site or company's premises and value materials.
- ♦ Negotiate sale of these materials to other related companies.

## **COMPANY / SUB-CONTRACTOR RECEIVERSHIP OR WINDING UP ORDERS**

As part of the company's assets, existing contracts may be considered to be a substantial benefit. These contracts may possibly be transferred to a new company at a benefit to the company in receivership.

We are able to value the overall recovery that these contracts may enjoy and negotiate a transfer fee should the contract allow novation.

We will then contact other related companies to establish potential interest and pursue a satisfactory transfer.

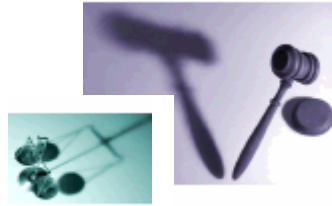


Drinkwater Associates Ltd offers a comprehensive service related to any aspect of Receiverships or Winding Up orders:

- ◆ Review and checking of Management Accounts.
- ◆ Profit and Loss analysis.
- ◆ Checking work in progress cost and value.
- ◆ Evaluation of liabilities.
- ◆ Collection of outstanding cash balances.
- ◆ Preparation and agreement of Final Accounts.
- ◆ Preparation and agreement of Contractual Claims.
- ◆ Preparation of interim applications and increased costs.
- ◆ Taking action to reduce claims against the client from suppliers and sub-contractors.
- ◆ Management and supervision of remedial works to secure release of retention monies.
- ◆ Stocktaking and disposal of assets.

## COMPANY ACQUISITIONS

The services offered are very similar to those outlined on previous pages of this document, but where an acquisition is required we can assist with the valuation of Work in Progress involving:



- ◆ Attending the company's offices / sites to investigate and analyse each specific contractual relationship.
- ◆ Identify and prepare individual project status reports giving a brief overview of moneys due and/or in dispute and report upon the viability of the future outcome of the project based upon the work carried out from moneys due and costs incurred.
- ◆ The proposed strategy would take into account the maximisation of recovery on the new company's projects and whether they are involved in Mediation, Litigation or Arbitration. We would also comment on and make an assessment of success rates for each.
- ◆ The assessment of moneys due would include any contractual or common right to additional monies because of any default by the Client or change in their requirements.
- ◆ The report would include the likelihood of any Counterclaims and/or Set Off from either clients, suppliers or sub-contractors.
- ◆ We can also determine the viability of the project for novation and possible sale.
- ◆ We can report upon the assets in the form of property, raw materials and/or stock and assist with their disposal for cash recovery.
- ◆ A further element of the report would be in respect of the state of completion of any contract and whether there are any defects or claims against warranties which need to be investigated to ensure that all liabilities are minimised.

## EXPERT WITNESS REPORTS

Drinkwater Associates Ltd can carry out the preparation of Expert Witness Reports to assist parties in understanding the exact nature and full extent of the problem. These reports can be used as an independent document during litigation or to establish liability where a failure has occurred.

## PROFESSIONAL PERSONNEL

- ♦ **Bob Drinkwater** *FIPHE, RP*
- ♦ **Derek Mellish** *Associate, MASHRAE*
- ♦ **Jerry Mayhew** *Associate, ARICS*
- ♦ **Graham Crowhurst** *Associate*
- ♦ **Kevin Blatch** *Associate, MCIQB; MRICS; FInstCES*
- ♦ **David Grimes** *Senior Surveyor, BSc, GradIWM*
- ♦ **Michael Hall** *Senior Surveyor, BSc (Hons)*
- ♦ **Mark Drinkwater** *Surveyor*
- ♦ **John Slade** *Project Manager, CIBSE*
- ♦ **Paul Martin** *Project Manager*
- ♦ **Jina Treleven** *Project Co-ordinator*
- ♦ **Tracey Scully** *Technical Auditor*

## CLIENT HISTORY

### MECHANICAL, ELECTRICAL, PLUMBING AND CONSTRUCTION CONTRACTORS

- ♦ AC Preou Ltd
- ♦ Barratt Developments
- ♦ Bellway Homes
- ♦ Berkeley Group
- ♦ Bovis Lendlease
- ♦ BP Oil UK Ltd
- ♦ BP Solar Espana
- ♦ Briggs & Forrester Ltd
- ♦ Colledge Trundle & Hall Ltd
- ♦ Crown House Technologies
- ♦ Dorotan Ltd
- ♦ Ductwork Products Ltd
- ♦ Elmeridge Cable Services Ltd
- ♦ Enterprise
- ♦ Environmental Agency
- ♦ Fairview Homes
- ♦ Fanshaw Lofts (Receivers)
- ♦ Flemming Construction
- ♦ Forticrete (Roofing) Ltd
- ♦ Heating & Cooling Services Ltd
- ♦ Interserve Ltd
- ♦ John Carter Ltd
- ♦ John Mowlem Ltd
- ♦ Kilnbridge Construction Ltd
- ♦ PEL Group Ltd
- ♦ Price Waterhouse (Receivers)
- ♦ Seeboard
- ♦ Shepherd Engineering Ltd
- ♦ Simpson & Partners
- ♦ St George (North London) Ltd
- ♦ Subterra Ltd
- ♦ Sulzer Infra Ltd
- ♦ Tamdown Ltd
- ♦ Taymech Ltd