

## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

Contractor

Consultant

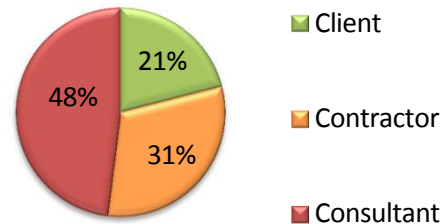
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### Methodology for interpreting the questionnaire responses.

- a) Where a response is made from more than one perspective with strongly agree or agree, then that response is apportioned to 1.1 client and/or 1.2 contractor and/or 1.3 consultancy accordingly.
- b) All un-ticked items are deemed to be ticked under the "It depends" category.
- c) The slice of the pie chart that relates to the "It Depends" category has been segregated; to show the whole result, whilst enabling the other categories to be compared proportionally side by side.
- d) There was a total number of 31 responses to this survey, conducted between 14th June 2012 and 14th July 2012.

### 1.0 Answered from the perspective of:

- 1.1 A client organisation (6.5 responses).
- 1.2 A contractor (9.5 responses).
- 1.3 An independent consultancy (15 responses).



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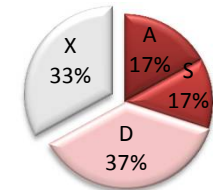
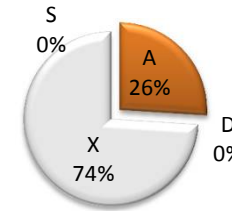
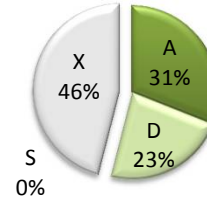
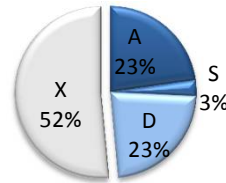
Consultant

### 2.0 Project cost.

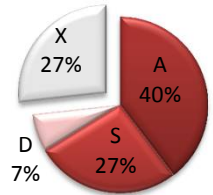
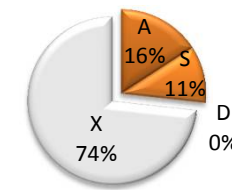
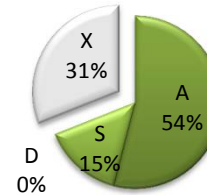
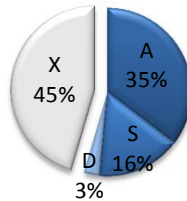
The majority of our projects cost in excess of:

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

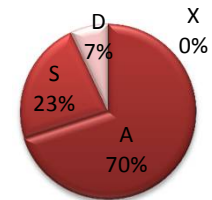
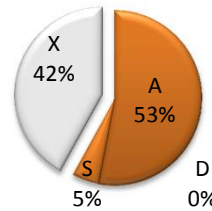
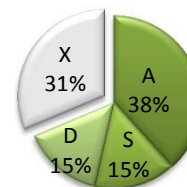
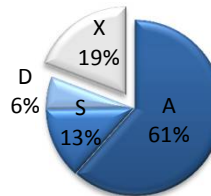
2.1 10 million U.S. dollars (AED 36 million).



2.2 50 million U.S. dollars (AED 180 million).



2.3 100 million U.S. dollars (AED 360 million).



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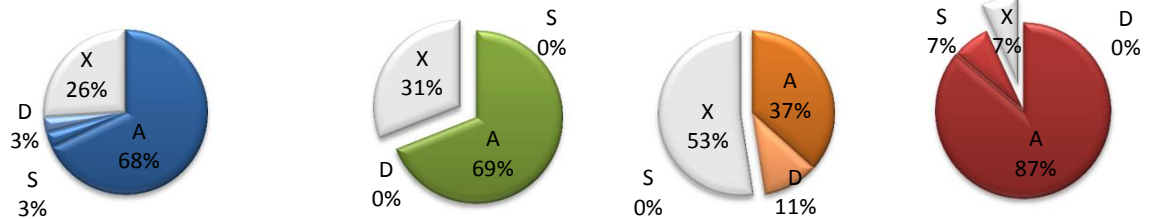
Consultant

### 3.0 Contract information.

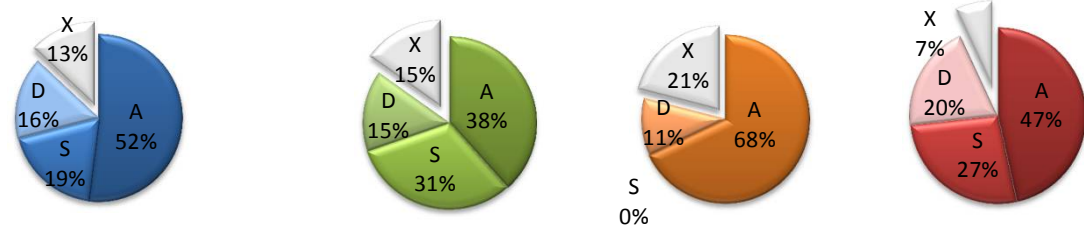
A substantial proportion of our projects use the following as the base contract, subject to amendments.

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

#### 3.1 FIDIC 4th edition 1987/1992.



#### 3.2 FIDIC 1999 red or yellow books.



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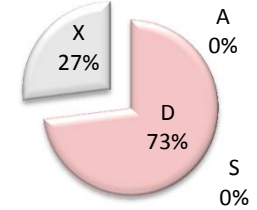
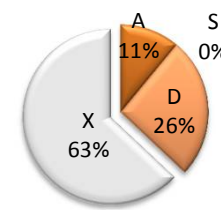
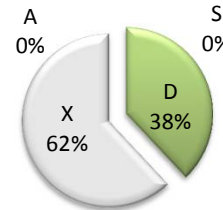
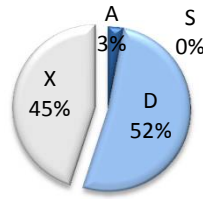
Contractor

Consultant

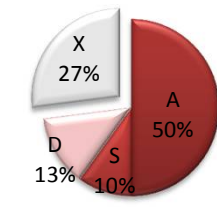
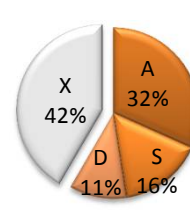
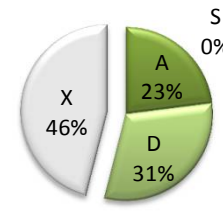
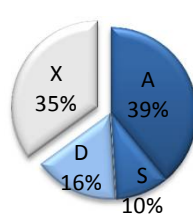
### 3.0 Contract information (cont'd).

**KEY:** A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

#### 3.3 NEC3 (Engineering & Construction Contract).



#### 3.4 Bespoke contracts.



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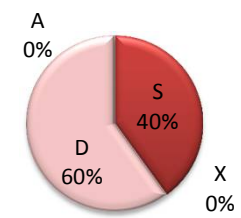
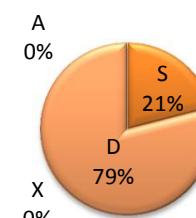
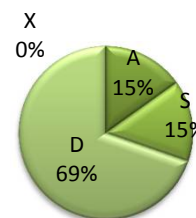
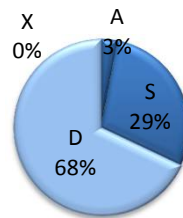
Contractor

Consultant

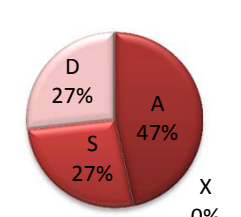
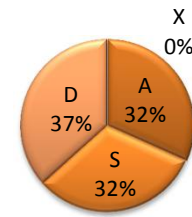
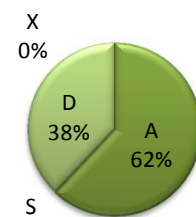
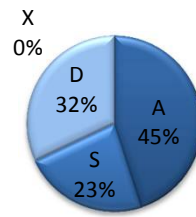
### 4.0 Dispute resolution procedures.

**KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.**

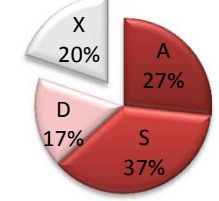
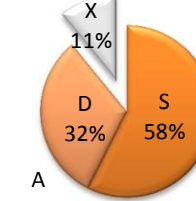
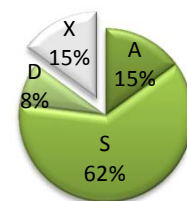
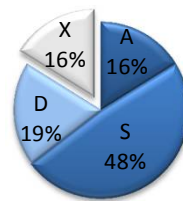
4.1 A dispute adjudication board or adjudicator is appointed at the project commencement.



4.2 A dispute adjudication board or adjudicator is appointed on an ad-hoc basis if required during the project.



4.3 An independent expert is appointed to assist the parties in settling disputes.



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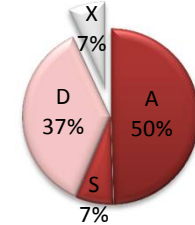
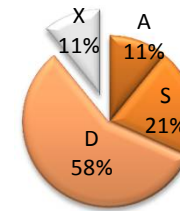
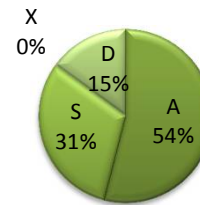
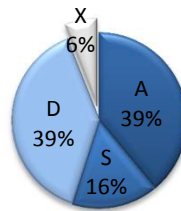
Contractor

Consultant

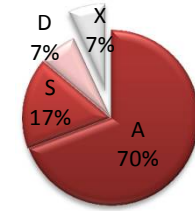
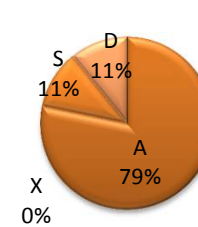
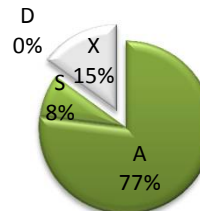
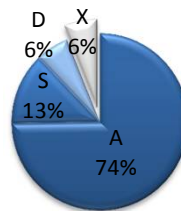
### 4.0 Dispute resolution procedures (cont'd).

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

4.4 Mediation / counselling techniques are used to encourage the parties to settle their disputes.



4.5 The Employer utilises his own dispute resolution procedure e.g. requiring management representatives from the parties to try and resolved the dispute, prior to Arbitration or Litigation.



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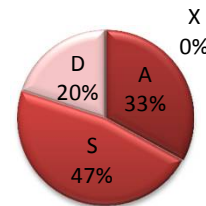
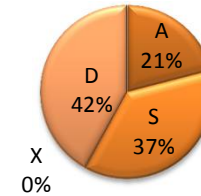
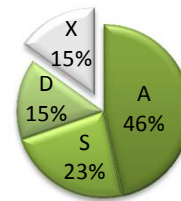
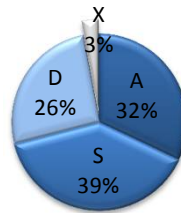
Contractor

Consultant

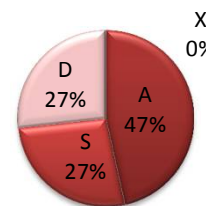
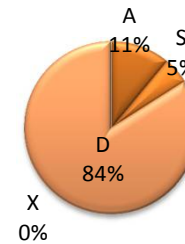
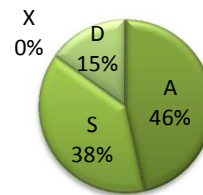
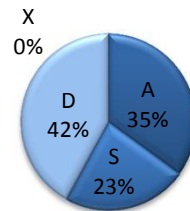
### 5.0 Settlement of disputes.

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

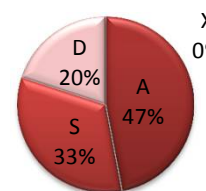
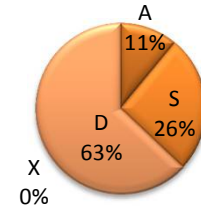
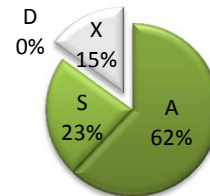
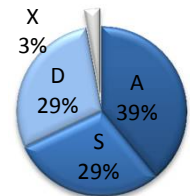
5.1 An amicable settlement is reached within a reasonable time and at a fair value.



5.2 The Engineer or Contract Administrator acts **impartially**, when making determinations.



5.3 The Engineer or Contract Administrator acts **fairly**, when making determinations.



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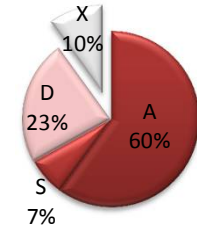
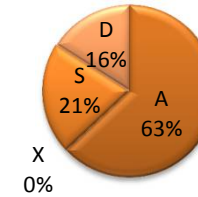
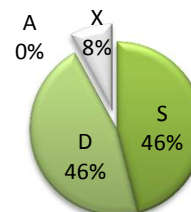
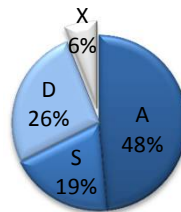
Contractor

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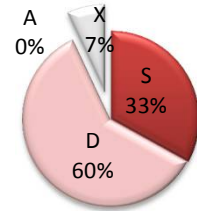
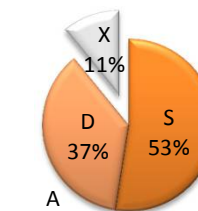
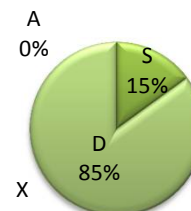
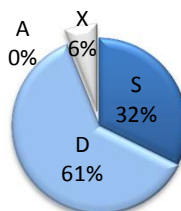
### 5.0 Settlement of disputes (cont'd).

**KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.**

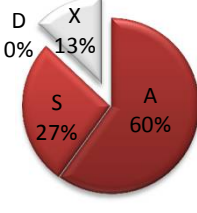
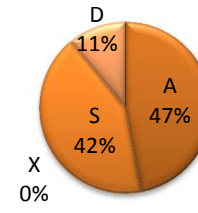
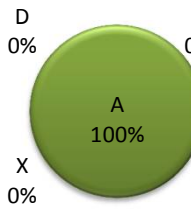
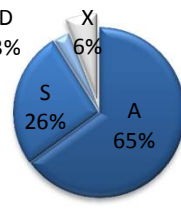
5.4 Arbitration is the preferred method of binding dispute resolution.



5.5 Litigation (the court system) is the preferred method of binding dispute resolution.



5.6 Disputes are usually settled before reaching Arbitration or Litigation stage.





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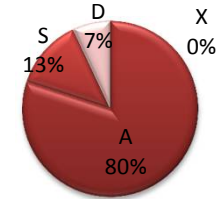
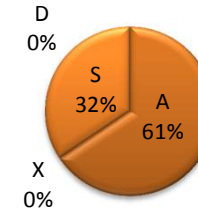
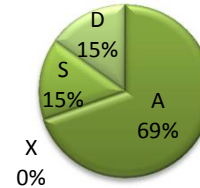
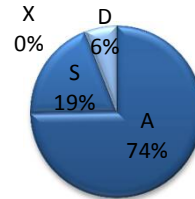
Consultant

### 6.0 Types of dispute.

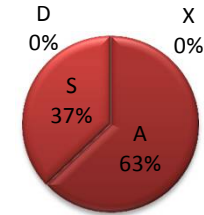
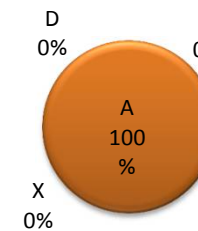
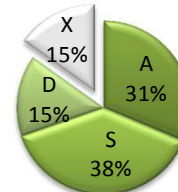
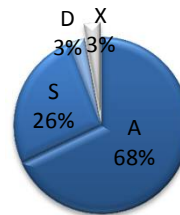
A substantial proportion of disputes are related to:

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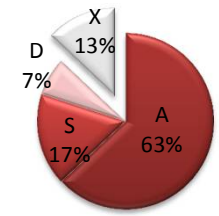
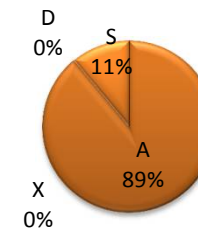
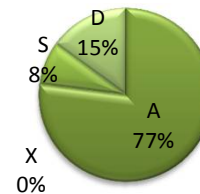
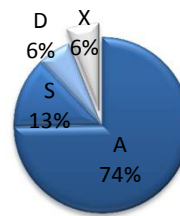
6.1 Interpretation of the contract conditions.



6.2 Interpretation of drawings and specifications.



6.3 Valuation of variations.



# Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

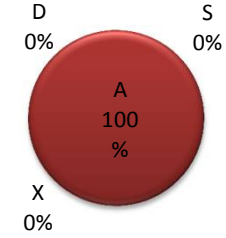
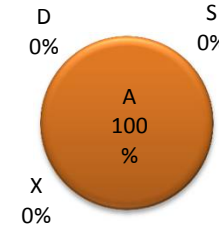
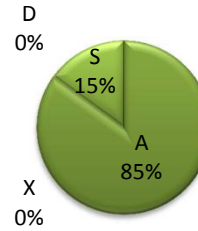
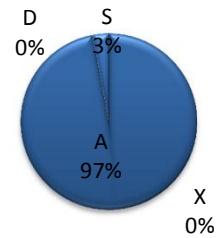
Contractor

Consultant

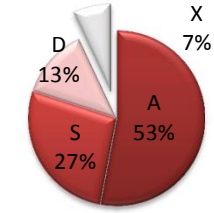
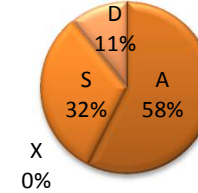
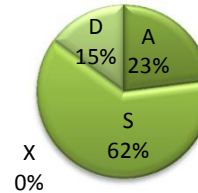
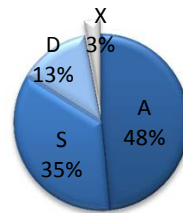
## 6.0 Types of dispute (cont'd).

**KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.**

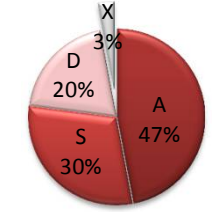
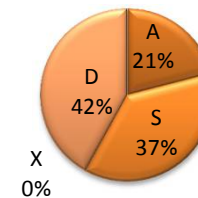
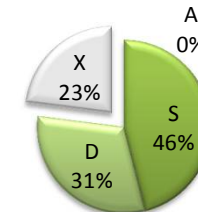
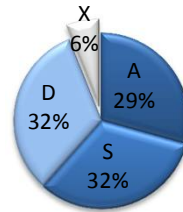
6.4 Extension of time entitlements.



6.5 Quality of design.



6.6 Quality of construction.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

Contractor

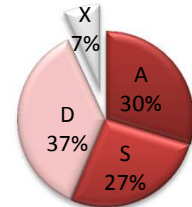
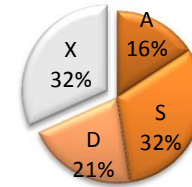
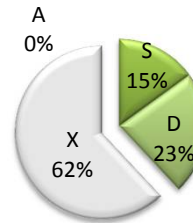
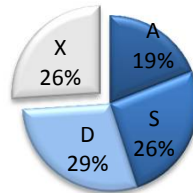
Consultant

### 7.0 Impact of disputes (approximate); For a typical project caused:

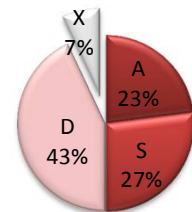
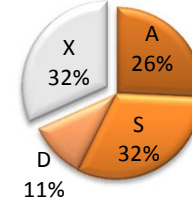
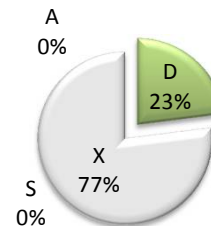
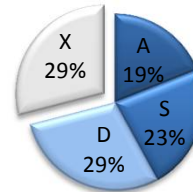
**KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.**

#### 7.1 Project delays in excess of:

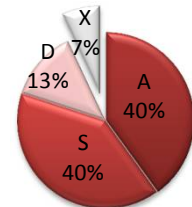
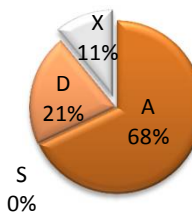
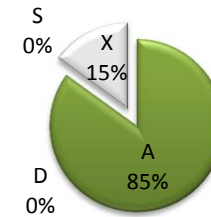
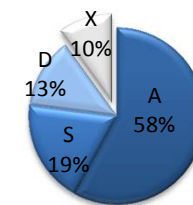
a) 1 month.



b) 2 months.



c) 3 months.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

Contractor

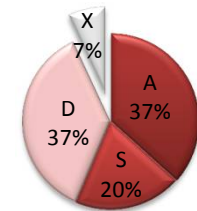
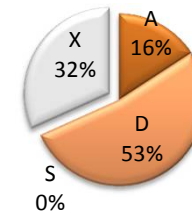
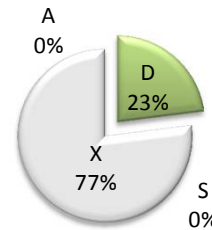
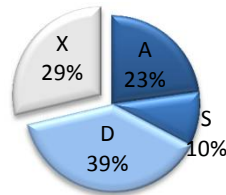
Consultant

### 7.0 Impact of disputes (approximate) cont'd.

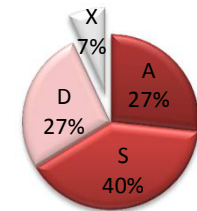
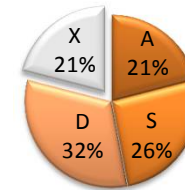
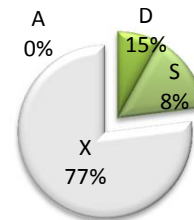
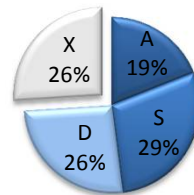
KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

#### 7.2 Increased overall cost of project by more than:

a) 1%.



b) 3%.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

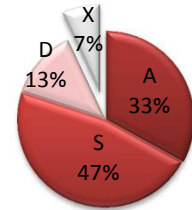
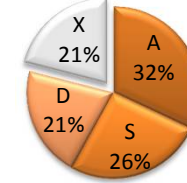
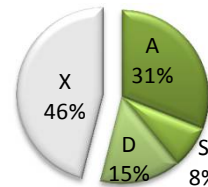
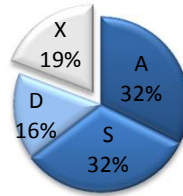
Contractor

Consultant

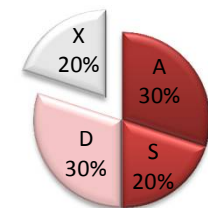
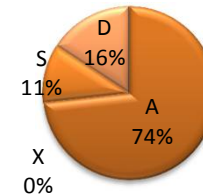
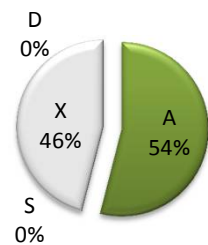
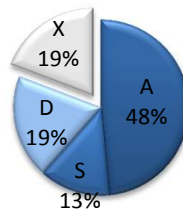
### 7.0 Impact of disputes (approximate) cont'd.

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

c) 5%.



d) 10%.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

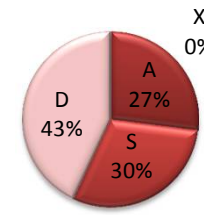
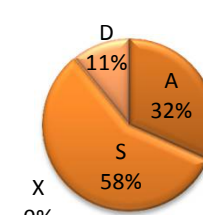
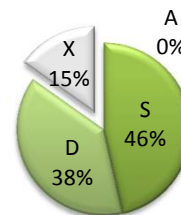
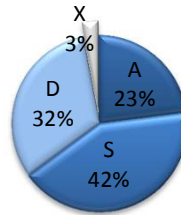
Contractor

Consultant

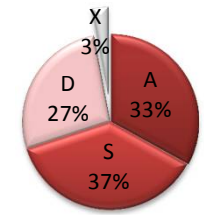
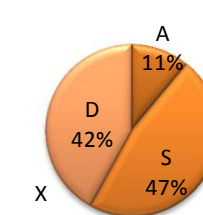
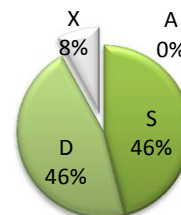
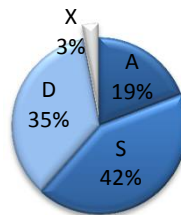
### 7.0 Impact of disputes (approximate) cont'd.

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

7.3 A detrimental impact on the quality of the design.



7.4 A detrimental impact on the quality of construction work.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

Contractor

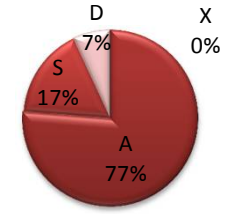
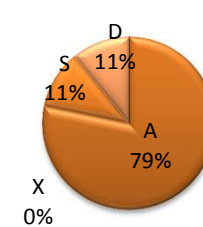
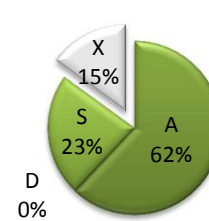
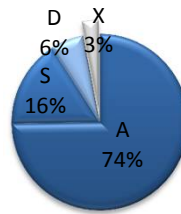
Consultant

### 8.0 Mitigation of dispute impact.

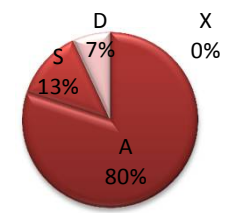
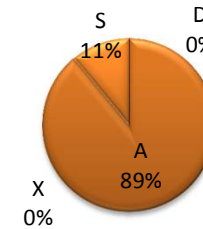
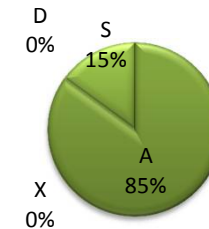
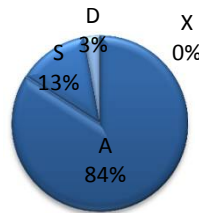
A quicker settlement of disputes would have significantly:

KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

#### 8.1 Reduced project delays.



#### 8.2 Reduced project costs.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

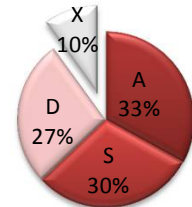
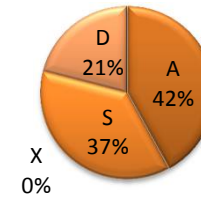
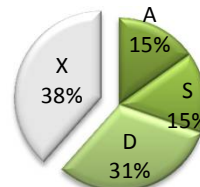
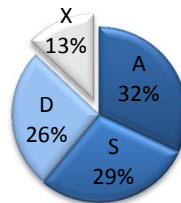
Contractor

Consultant

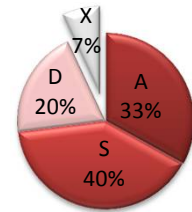
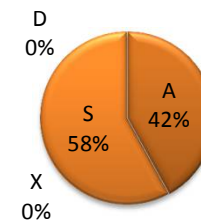
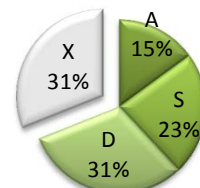
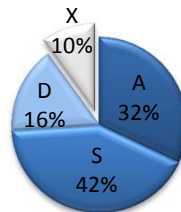
### 8.0 Mitigation of dispute impact (cont'd).

**KEY:** A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

#### 8.3 Improved the quality of design.



#### 8.4 Improved the quality of construction.





## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

Contractor

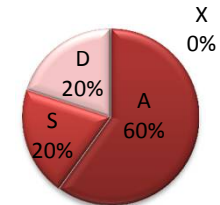
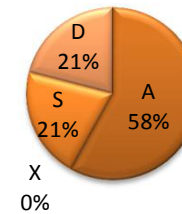
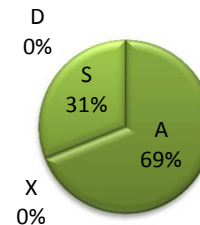
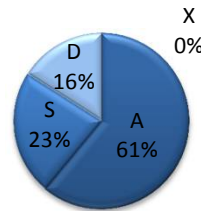
Consultant

### 9.0 Future change.

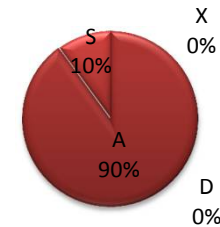
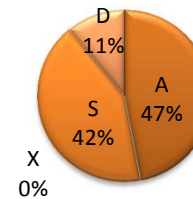
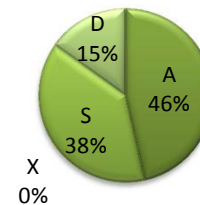
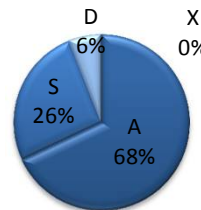
If a change to the dispute resolution process was acceptable to the parties to future contracts in Abu Dhabi, what would your opinion be to the following propositions:

**KEY:** A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.

9.1 **Mediation / counselling** by an independent 3rd party, at a low cost shared between the parties on a 50/50 basis, relying on mutual trust and cooperation, would be an effective method of dispute resolution.



9.2 **Fast track Adjudication** or Dispute Adjudication Boards, with industry experts giving independent and impartial contractually binding determinations, within a timescale of 1 - 3 months at reasonable cost shared 50/50 between the parties, would be an effective method of dispute resolution.



## Dispute Resolution Statistics for Abu Dhabi's Construction Industry - 14th July 2012



Results based upon the respondents last 5 years experience on typical construction projects in Abu Dhabi.

Combined Results

Client

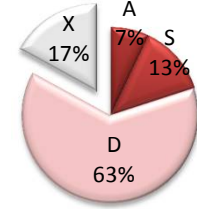
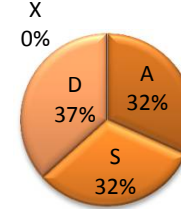
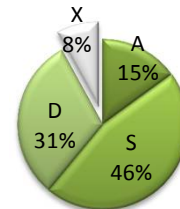
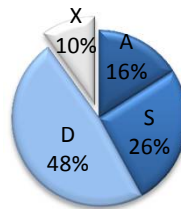
Contractor

Consultant

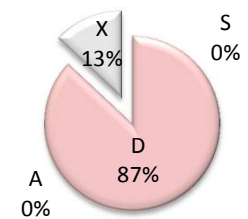
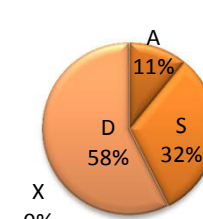
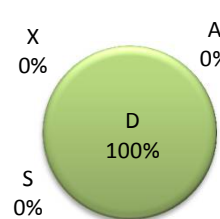
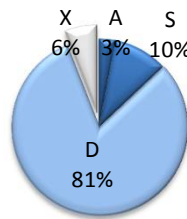
### 9.0 Future change (cont'd).

**KEY: A = Agree & Strongly Agree; S = Sometimes Agree; D = Disagree & Strongly Disagree; X = It Depends.**

9.3 **Arbitration** with its independent, impartial and finally binding nature, often using industry experts, whilst taking many months or years to reach a resolution is the most appropriate method to settle disputes, particularly as costs may be awarded in favour of the winner i.e. losing party to pay costs of arbitration.



9.4 **Litigation** through the courts is the best solution for settling disputes due to its final and binding nature; particularly as costs may be awarded in favour of the winner i.e. losing party to pay costs of litigation; though it may take more than one year to reach a determination, especially if appeals are permitted.



END OF SURVEY