

EVOLVING THE STANDARD

Operational Impacts
of NZS 3910:2023



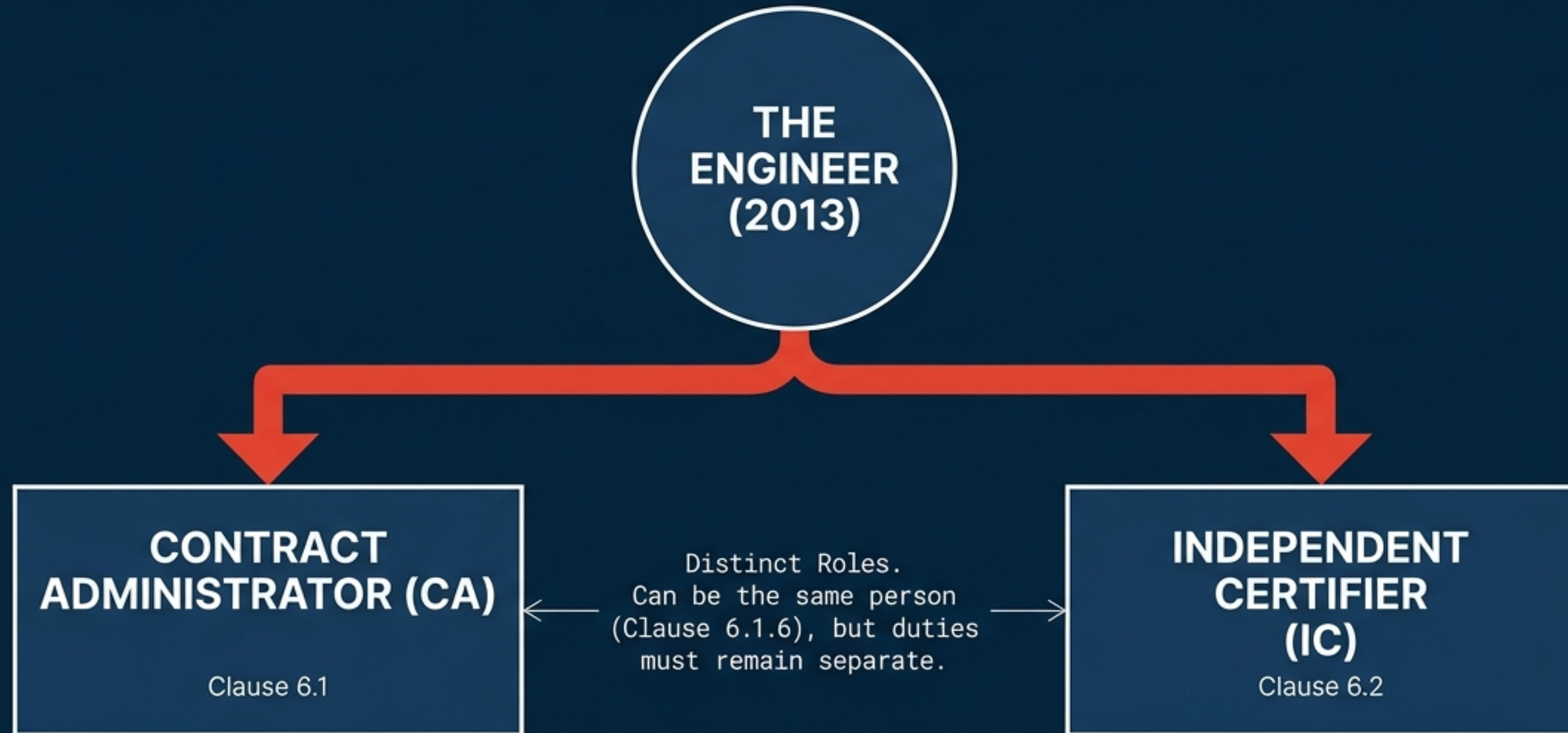
Review Commissioned by:
NZ Infrastructure Commission &
Construction Sector Accord.

MOVING AWAY FROM 'BESPOKE'.



- **The Problem:** Proliferation of Special Conditions in the 2013 Standard.
- **The Objective:** Reduce heavy legal modification during tendering.
- **The Result:** The most significant revision since 1987, reflecting modern legislative environments.

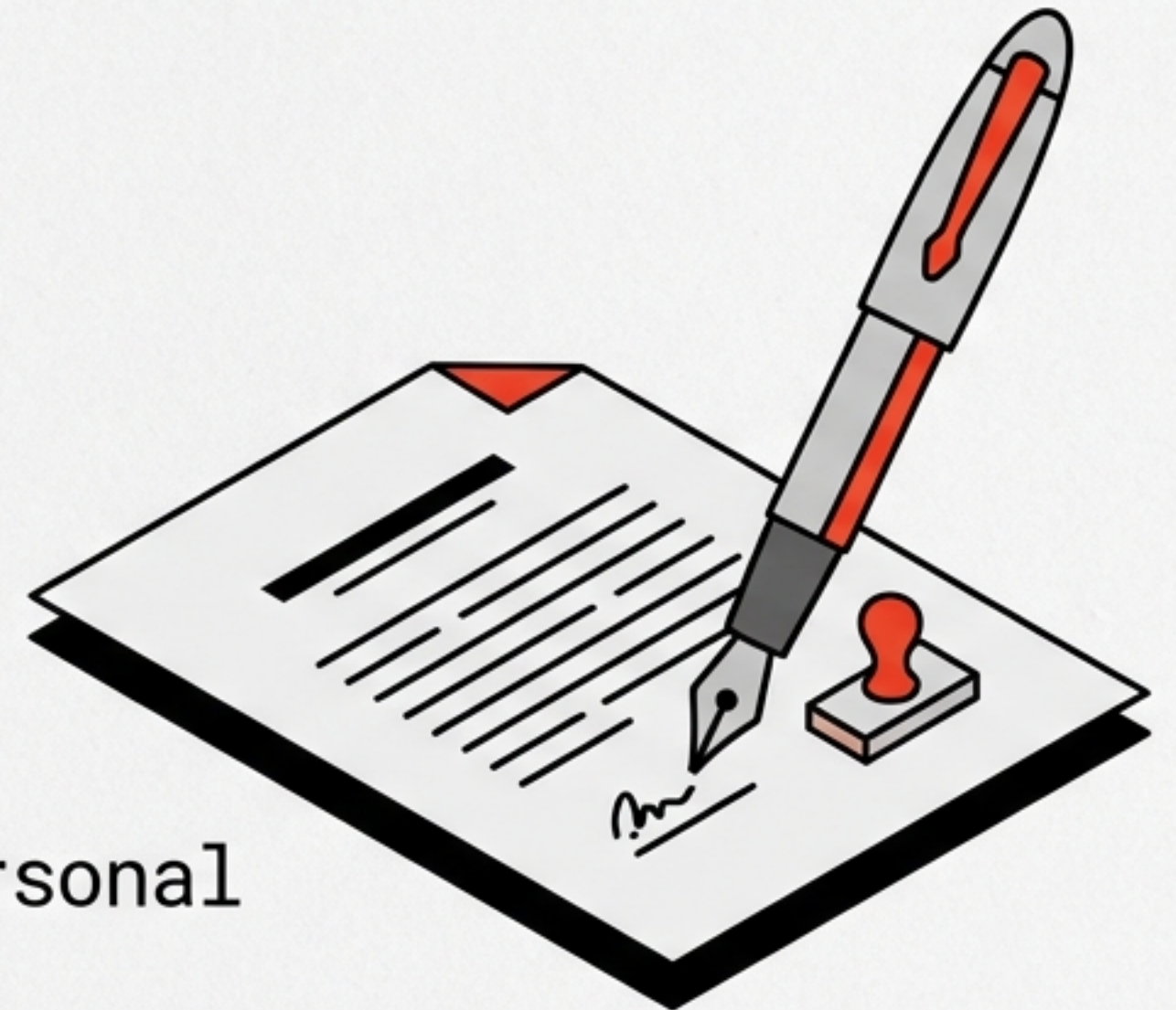
THE END OF THE DUAL-HAT ENGINEER



THE CONTRACT ADMINISTRATOR (CA)





“Acts for and on behalf of the Principal.”

- ✓ Issuing Instructions (Clause 6.3)
- ✓ Managing Variations
- ✓ Directing the Contractor
- ✓ Note: Must be “one natural person”—personal accountability.



THE INDEPENDENT CERTIFIER (IC)

“Acts fairly, impartially, and independently.”

-  Valuing Work & Issuing Payment Schedules
-  Deciding Extensions of Time (Clause 10.3.5)
-  Issuing Completion Certificates
-  Making Decisions on Disputes (Clause 6.2.2)

Acts as **Principal's Agent ONLY** when receiving payment claims or applying Principal's deductions.

FROM INSTRUCTION TO DISPUTE



The new 'Review' mechanism resolves on-site issues before they become legal battles.

MODERNIZING FINANCIAL TERMINOLOGY

OLD TERM (2013)	NEW TERM (2023)
On-site Overheads	PRELIMINARY & GENERAL (P&G) Expenses for general running of Contract Works (Clause 1.2).
Off-site Overheads & Profit	MARGIN Off-site expenses, head office costs, and profit (Clause 1.2).

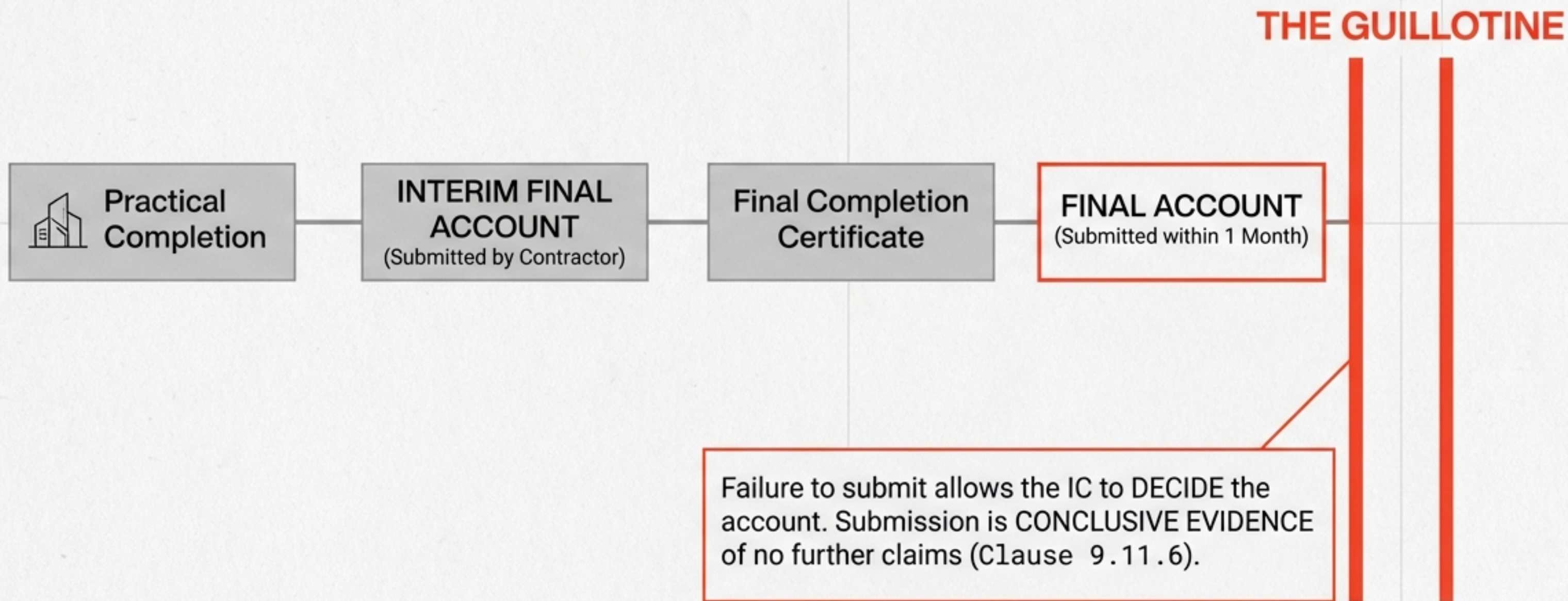
These terms are now integrated into the valuation of Variations (Clause 9.3).

NATIVE TARGET PRICE MODEL



- Native to Contract (Clause 2.5) – No more bespoke drafting.
- Calculation: Cost Reimbursement + Margin +/- Share.
- Incentivizes efficiency; aligns interests.

CLOSING THE BOOKS



REBALANCING RISK & LIABILITY



INDEMNITY (Clause 7.1):

'No fault' indemnity removed. Liability now tied strictly to negligence or breach.

LIABILITY CAP (Clause 7.2):

Introduction of a maximum aggregate liability limit.

EXCLUSIONS:

Cap does not apply to fraud, abandonment, or third-party liability.

INSURANCE & DEDUCTIBLES

CONTRACTOR ARRANGED INSURANCE

Contractor bears the FULL deductible.

PRINCIPAL ARRANGED INSURANCE

Principal bears the deductible.

UNLESS loss is caused by Contractor's act/omission.

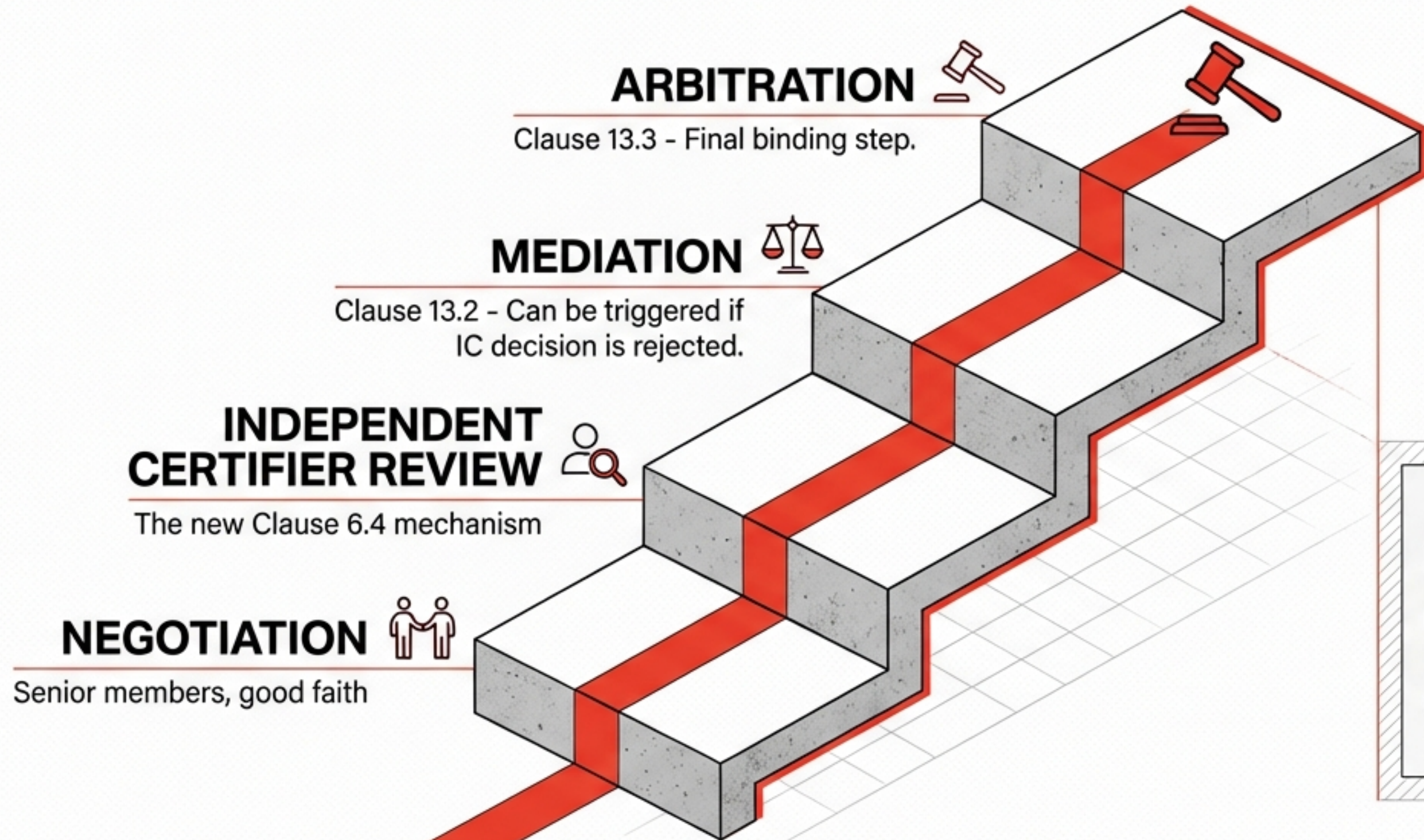
Contractor pays only the 'Nominal Deductible' stated in Specific Conditions (Clause 8.1.4).

OPERATIONAL RIGOR: MANDATORY PLANS



**No "Acceptance" by
Contract Administrator =
No Commencement of
Work.**

DISPUTE RESOLUTION LADDER



OPERATIONAL CHECKLIST

FOR PRINCIPALS

- Appoint distinct persons for CA and IC roles.
- Review Special Conditions (delete clauses now native to 2023).

FOR CONTRACTORS

- Update pricing to reflect P&G and Margin definitions.
- Prepare templates for Safety, Quality, Traffic & Environmental Plans.
- Negotiate Liability Caps in Specific Conditions.

Adapting to NZS 3910:2023.